

CHAPTER FIVE: PLANNING, ZONING, USE, AND DEVELOPMENT OF LAND AND IMPROVEMENTS

Subchapter 5.01: General

5.01.010 General Provisions.

- (a) No building shall hereafter be constructed, reconstructed, altered, enlarged, moved or maintained, except for the purposes specified in, and in compliance with, the provisions of this chapter.
- (b) No building or land may be used, designed, or intended to be used, except for the purposes specified in, and in compliance with, the provisions of this chapter.
- (c) No lot may be split, and no lot area diminished or maintained, except for the purposes specified in, and in conformity with, the provisions of this chapter.

[History: formerly § 5.101; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

5.01.020 Normal Procedure.

The normal procedure of obtaining approval for the construction, reconstruction, alteration, enlargement, movement or maintenance of building, or for the use of any building or land, is as follows:

- (a) Follow the EIR procedures set forth in Subchapter Two of Chapter Three of this Code and the state EIR guidelines;
- (b) Conform the project to the Town of Colma General Plan or apply for an amendment thereto;
- (c) Obtain approval under the City Subdivision and Parcel Map Ordinance, in accordance with Subchapter Two herein;
- (d) Obtain a Building Permit, and all related approvals, in accordance with this Chapter and all applicable requirements of Subchapters 5.04 and 5.07 of Chapter 5 of the Colma Building Code;
- (e) Obtain a building permit, grading permit and all related approvals, in accordance with this Chapter and all applicable requirements of Subchapters 4.04 and 4.07 of Chapter 5 of this Code.
- (f) Obtain other necessary permits and approvals.

[History: formerly § 5.102; ORD. 234, 3/14/79; ORD. 638, 12/14/05; ORD. 687, 1/13/10]

5.01.030 Project Applications.

The basic form of application for any entitlement of use in the Town of Colma is the *Town of Colma Project Application*. An applicant may submit one Project Application for the entire

project for which he seeks a permit, license or other entitlement of use, or may submit different applications for the entire project, provided that the first application adequately describes the entire project.

[*History:* formerly § 5.103; ORD. 234, 3/14/79; ORD. 345, 3/11/87; ORD. 638, 12/14/05]

5.01.040 City Planner to Determine Completeness of Project Application.

The City Planner shall, within 30 calendar days after the City has received an application for a development project, determine, in writing, whether such application is complete and shall immediately transmit such determination to the applicant to the address indicated on the application form. In the event that the application is determined not to be complete, the City Planner shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete. That part of an application for a permit, license or other entitlement to use which first requires the adoption or amendment of the General Plan or any ordinance of the Town of Colma shall be deemed incomplete until such adoption or amendment of the General Plan or ordinances. That part of an application that first requires compliance with the Town of Colma EIR Ordinance (Chapter Three, Subchapter Two of the Code) shall be deemed incomplete until completion of the EIR process set forth herein.

[*History:* formerly § 5.104; ORD. 234, 3/14/79; ORD. 345, 3/11/87; ORD. 638, 12/14/05]

[*Reference:* GOV'T CODE §65920 et seq.]

5.01.050 Time Limitations.

(a) Whenever the Town of Colma is the lead agency (as defined in section 3.02.010 of the Code) on a development project, the City Council shall approve or disapprove such project within whichever of the following periods of time results in an earlier deadline date:

- (1) Ninety days after completion of the EIR process set forth in Chapter Three, Subchapter Two of this Code;
- (2) One year after acceptance of the application as complete.

(b) Whenever the Town of Colma is the responsible agency (as defined in section 3.02.010 of this Code) on a development project and the application has been accepted as complete, the City Council shall approve or disapprove such project within whichever of the following periods of time results in a later deadline date:

- (1) 180 days after the lead agency has approved or disapproved the project; or
- (2) 180 days after the date on which the application has been received and accepted as complete by the Town of Colma.

(c) The Mayor may, after consultation with any council member, grant a reasonable extension up to 90 days of the time limitations set forth in subsections (a) or (b) above, provided that compelling circumstances justify additional time and the applicant consents to the extension.

(d) The failure to approve or disapprove a development project application within the time limits set forth in this section shall be deemed an approval of the project.

[*History:* formerly § 5.105; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

[*Reference:* GOV'T CODE §65920 et seq.]

5.01.060 Enforcement; Misdemeanor.

(a) It shall be the duty of the Police Department of the City, and all officers of said City otherwise charged with the enforcement of the law, to enforce this chapter.

(b) Any Person (as defined in section 1.01.100 of this Code) violating any of the provisions of this chapter, including, but not limited to, the provisions of sections 5.01.010, 5.02.010, 5.03.030, 5.04.010, 5.06.030, and 5.09.040, shall be guilty of a misdemeanor. Such person shall be deemed guilty for each day during any portion of which any violation is committed, continued or permitted and shall be punished as herein provided.

(c) The City Attorney, upon request of the City Council, shall institute any necessary civil proceedings to enforce the provisions of this chapter, and he is hereby authorized, in addition to the remedy herein provided, to institute an action for an injunction to restrain, or to institute any other appropriate action or proceedings to enforce such provisions.

[*History:* formerly § 5.106; ORD. 234, 3/14/79; ORD. 638, 12/14/05, ORD. 643, 4/12/06]

5.01.070 Late Filing Fee.

(a) If any person shall construct, reconstruct, alter, enlarge, move or maintain any building in the Town of Colma, or use or permit to be used any building or land in the Town of Colma, or split, diminish or maintain any lot area in the Town of Colma, without first obtaining all permit, licenses or other entitlements of use required of such person by this chapter, a late filing fee shall be assessed in connection with each such permit, license or other entitlement of use that should have been obtained.

(b) For each permit, license or other entitlement of use covered by subsection (a) above, the late filing fee shall be \$50.00 for each month or portion thereof from the date of first violation of any of the provisions of this chapter to the date that a completed application for such permit, license or other entitlement of use is received by the Town of Colma.

(c) Payment of the sums specified in this section shall not validate any action in violation of this chapter, and shall not relieve any person from liability under the provisions of section 5.01.060 of this Code.

[*History:* formerly § 5.107; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

5.01.080 Definitions.

Except where the context otherwise indicates, the following words and phrases shall have respective meanings ascribed thereto whenever such words and phrases are used in this chapter or in any amendments thereto hereinafter enacted:

Accessory Building means a portion of building or a detached subordinate building located on the same lot, the use of which is customarily incidental to that of the main building or to the use of the land. A building or structure shall be considered part of the principal dwelling if a substantial part of the wall of a building is a part of the main building, or if the building or structure is attached to the main building in a substantial manner by a roof, or if there is a common wall with a doorway between the building and the principal dwelling. Examples of accessory buildings and structures that are customarily incidental to a residence include, but are not limited to: a detached garage, tool shed, storage shed, carport, greenhouse, gazebo, detached patio cover, and similar buildings; second dwelling units are not accessory buildings.

Alley means a public or private way permanently reserved as a secondary means of access to abutting property.

Antenna means any system of wires, poles, rods, discs, dishes or similar devices used to collect or radiate electromagnetic waves or signals for any purpose. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. An antenna does not include the support structure upon which the antenna is mounted.

Boarding house shall mean a building used for residential purposes, other than a hotel, wherein three (3) or more rooms, with individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence.

Building means any structure having a roof supported by columns or walls for the housing, use or occupancy of persons, animals or personal property. For purposes of the Zoning Code, uncovered, ground-level patios and decks are not buildings. Where a building is separated by a division wall without opening, each portion of such dwelling shall be deemed a separate building.

Commercial Center shall mean and refer to a group of commercial establishments and light industrial establishments (provided that the majority of the establishments are principally engaged in the retail sale of personal property) planned, designed and developed in a unit, and related in its location, size and type of shops.

Commercial Core means property adjacent to or which has driveway access to Serramonte Boulevard between Hillside Boulevard and Junipero Serra Boulevard, Collins Avenue, Junipero Serra Boulevard between Collins Avenue and Colma Boulevard, and Colma Boulevard between Junipero Serra Boulevard and the westernmost boundary of the City and County of San Francisco easement.

Commercial Establishment shall mean and refer to an establishment that engages in the purchase or sale of real property, personal property or services to the general public, or any segment thereof, for their own use, consumption or enjoyment. As used herein, commercial establishment shall exclude any establishment substantially engaged in the assembly, construction, alteration, manufacture, repair or packaging, or destruction of any real or personal property.

Commercial Marijuana Activity includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products.

Construction Yard means an area where construction materials, equipment, containers for storage of construction materials, and containers for removal or disposal of construction debris are located to facilitate the lawful construction or renovation of a nearby building or structure. A Construction Yard with Office or Overnight Facilities means a Construction Yard that includes an office or Overnight Facilities. A Construction Yard may include multiple temporary structures or containers if all structures and containers are used by the same contractor or for the same project.

Cottage food employee means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

Cottage food operation means an enterprise that is operated by a cottage food operator and not more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. A cottage food operation includes both of the following: (1) A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products; (2) A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products. The terms "direct sale" and "indirect sales" are defined in Health and Safety Code section 113758.

Cottage food operator means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

Cultivation means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

Delivery means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

Developer means any person applying for, constructing, placing, or undertaking a development project.

Development means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of

any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code). "Development" does not mean a "change of organization", as defined in Section 56021 or a "reorganization", as defined in Section 56073 of the Government Code.

Development Project shall mean and refer to any project undertaken for the purposes of development.

Distribution means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.

Dwelling unit means a building or portion thereof designed for occupancy by persons living as one household. [See: second dwelling unit, single-family dwelling unit, multiple family dwelling unit.]

Emergency shelter means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person.

Family means, and is used interchangeably with, *household*.

Fire Lane means an off-street, access-way, or driveway serving buildings, or properties, as required by the Fire Code and approved by the Colma Fire Protection District. Unless otherwise required and/or approved by the Colma Fire Protection District, fire lanes shall provide access for fire apparatus to within 150 feet of any point of the building. A fire lane shall have a minimum unobstructed clear width of 20 feet, exclusive of any parked vehicles or storage. Fire lanes shall have a minimum vertical clearance of 13 feet 6 inches, and minimum turning radius of 20 feet interior and 54 feet exterior. Where fire lanes exceed 150 feet in length an approved turnaround shall be provided.

Golf Course shall mean and refer to and include private grounds over which the game of golf is played, and consisting of not less than 40 acres for each nine hole course, but shall not mean and shall not include miniature golf courses, "Par 3 Golf Courses", driving or practice tees.

Group Residential Facility means any family home, group care facility, or similar facility, other than an emergency shelter, providing for twenty-four-hour non-medical care of persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual. A residential care home serving six or fewer persons shall be considered a single family dwelling for all zoning purposes.

Home Office shall mean and refer to the incidental use of a dwelling unit for an office or a place of instruction, provided that the principal user of the office or place of instruction is a resident of the dwelling unit;

Household shall mean one or more persons, whether or not related by blood, marriage or adoption, sharing a dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs and utilities, as well as maintaining a

single lease or rental agreement for all members of the household and other similar characteristics indicative of a single household.

Industrial Establishment shall mean and refer to an establishment substantially engaged in the assembly, construction, manufacture, repair, packaging, movement or destruction of real or personal property.

Licensee means the holder of any state issued license related to marijuana activities, including but not limited to licenses issued under Division 10 of the Business & Professions Code.

Light Industrial Establishment shall mean and refer to an establishment substantially engaged in the assembly, construction, alteration, manufacture, repair, packaging, movement or destruction of personal property only, where such activities take place solely within a building on the premises.

Lot means land held under separate ownership and occupied or to be occupied by a building or unit group of buildings, together with such yards, open spaces, lot width and lot area as are required by this ordinance, and having its principal frontage on a street.

Lot Depth means the horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

Lot Width means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Manufacture means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

Manufactured home means a structure, with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following), that was constructed on or after June 15, 1976, is transportable in one or more sections, is built on a permanent chassis and designed to be used as a single-family dwelling when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

Marijuana means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include:

1. Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or
2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing,

packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

Marijuana products means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

Minor use means a use determined by the City Planner to be incidental to and a minor addition to a generally permitted use or a conditionally permitted use of property. By way of example only, the following may be considered minor uses: the addition to a vehicular sales establishment of a detached tent for display purposes where the tent structure is significantly smaller than the permanent buildings on the site; the addition to an auto repair facility of a display space for on-site sale of auto accessories.

Multiple dwelling means a building comprised of two or more dwelling units.

Non-Conforming Use means a use which lawfully occupied a building or land at the time this ordinance became effective and which does not conform with the use regulations of the district in which it is located.

Outdoor Sales Event means the temporary outdoor display or sale by a retail business of merchandise which is normally displayed indoors at the same location as the outdoor sale.

Parking Access Way means a private roadway or off-street aisle in a parking lot providing direct access to off-street parking spaces. Such facilities shall measure no less than twenty-four (24) feet wide and, in the case of private roadways, shall be the clear distance between face of curbs. Private roadways shall have vertical curbs and the curbs shall be painted red and clearly marked "NO PARKING".

Parking Space shall refer to off-street parking spaces in the quantity specified for the various zoning districts as further defined below:

(a) *Standard Parking Space* shall refer to a standard off-street parking space measuring no less than nine (9) feet wide by nineteen (19) feet long, with direct access to a parking access aisle or street. Parked vehicles shall not be allowed to overhang adjacent landscape or walkway areas, and parking spaces shall not include landscape, walkway areas or parking access aisles in their dimension.

(b) *Compact Car Parking Space* shall refer to a standard off-street parking space specifically designed for compact car parking and measuring no less than seven and one-half (7-1/2) feet wide by sixteen (16) feet long. Compact car parking is subject to City Council approval and may be allowed up to a maximum of thirty percent (30%) of the total required off-street parking in large (over 100,000 square feet) commercial shopping centers only. Compact car spaces shall be located in accordance with such guidelines as may be established from time-to-time by resolution of the City Council.

(c) *Accessible Parking Space* shall refer to an off-street parking space specifically designed for use by disabled individuals. The number and sizes of these parking spaces shall be as

required by the provisions of the Colma Building Code. Such spaces shall be located as close to the facility being served as practical.”

Person includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

Private residence means a house, an apartment unit, a mobile home, or other similar dwelling.

Processing costs shall mean:

- (a) the charges for the time spent by all employees, agents, and consultants of the city, except the City Manager, City Attorney, and their respective staffs, to investigate, review, process or recommend action with respect to a development project; and
- (b) the reimbursable costs defined in this section.

Processing fees means the fees charged to recover processing costs.

Promotional Event means an event announcing or promoting a milestone for a business, such as a grand opening or re-opening celebration, that includes limited outdoor use of the site or parking lot.

Reimbursable expenses means reasonable and necessary transportation, transmission, copying and communication expenses directly related to investing, reviewing, processing or recommending action with respect to a development project.

Retail Merchandising Unit (RMU) shall mean a movable cart, kiosk or similar device occupying a specific location on a regular basis and tended by a person who, in any public place or place open to the general public, sells or offers for sale any goods, wares or merchandise over the counter of a kiosk or cart.

Rooming house shall mean a building used for residential purposes, other than a hotel, wherein three (3) or more rooms, without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence.

Sale includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana products was purchased, et seq.

Second dwelling unit means a dwelling unit which provides complete independent living facilities on the same parcel as a legal single family dwelling including, but not limited to, the permanent provisions for sleeping, eating, cooking and sanitation.

Single-family dwelling means a detached building designed exclusively for occupancy by one (1) family.

Supportive Housing means housing with no limit on length of stay; that is occupied the target population defined in Health and Safety Code section 53260, including families with children, elderly persons, young adults aging out of the foster care system, persons with disabilities, and homeless people; and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Support Structure means any structure designed and constructed to support antennas, including self-supporting lattice towers, guy-wire support towers or monopoles.

Street means a public or private thoroughfare which affords the principal means of access to abutting property.

Temporary Use means a use that is designed to be of limited duration and will not permanently alter the character or physical facilities of the site where they occur.

Transitional Housing means group or multifamily rental housing designated for a homeless individual or family transitioning to permanent housing, where stays are for at least six months and units are re-circulated to another recipient after a set period.

Wireless Communications means any communications transmissions through the airwaves including, but not limited to, cellular, paging, personal communications services (PCS), data, microwave communications service, direct broadcast satellite service, multipoint distribution services, satellite earth station, television broadcast, AM/FM radio broadcast, amateur radio.

Wireless Communications Facilities means the equipment and property, including, but not limited to, the towers, poles, pipes, mains, conduits, ducts, pedestals, electronic equipment, electrical meters, connectors, enclosures, and Antennas, used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications.

Yard means an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

Yard, Front means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Rear means a yard extending across the full width of the lot between the main building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot line.

Yard, Side means a yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard.

Zoning Clearance shall mean a determination by the Zoning Administrator that a use or proposed use of property complies with the provisions of this Code at the time of the determination.

[History: formerly § 5.110, ORD. 234, 3/14/79; ORD. 298, 6/13/84; ORD. 319, 5/8/85; ORD. 425, 7/10/91; ORD. 480, 5/10/95; ORD. 506, 3/12/97; ORD. 563, 10/18/99; ORD.

600, 6/25/03; ORD. 617, 6/16/04; ORD. 628, 5/11/05; ORD. 638, 12/14/05; ORD. 646, 7/12/06, ORD. 662, 9/12/07; ORD. 687, 1/13/10; ORD. 706, 3/14/12; ORD. 713, 10/10/12; ORD. 724, 6/12/13; ORD. 728, 10/9/13; ORD. 754, 1/13/16; ORD. 766, 11/9/16; ORD. 768, 12/14/16]

[References: Health & Safety Code § 113758]