

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

## Subchapter 5.03: Zoning

### 5.03.010 Title.

This subchapter shall be known as the "Zoning Ordinance" of the Town of Colma.

[History: formerly § 5.301; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

### 5.03.020 Purpose.

There is hereby adopted a zoning or districting plan for the Town of Colma. This plan is adopted to promote and protect the public health, safety, peace, morals, comfort and general welfare. It consists of the establishment of various zones, including therein all the territory within the boundaries of said city, within some of which zones it shall be lawful and within some of which zones it shall be unlawful to construct, reconstruct, alter, enlarge, move, or maintain certain buildings or to use certain lands or buildings, and it further consists of appropriate regulations to be enforced in such zones, all as set forth in this ordinance.

[History: formerly § 5.302; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

### 5.03.030 General Prohibition.

No person may use, design, or intend to be used, any building or land in the city, except for the purposes specified in, and in compliance with, the provisions of this subchapter.

[History: formerly § 5.303; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

### 5.03.040 Zones and Boundaries Thereof.

(a) The following land use zones shall be established in the City:

- G - Memorial Park, Agricultural and Recreational
- R - Residential
- R-S - Neighborhood Residential [Ord. 536, 7/8/98]
- C - Commercial
- P - Public
- E - Executive, Administrative
- T - Transit

(b) The following safety zone shall be established in the City: F.

Such zone shall be in addition to and lay over the land use zones as set forth in subsection (a) above. All real property in the Town of Colma lying within 50 feet of either edge of the Colma Creek, and all other real property determined by the City Engineer to be subject to a one per cent chance of flooding in any given year, shall be in the F zone.

(c) The following transit zone shall be established in the City: T.

Such zone shall be in addition to and lay over the land use zones as set forth in subparagraph (a) above. All real property in the Town of Colma lying within the 60-foot right-of-way owned, or formerly owned, by Southern Pacific Company shall be in the T zone.

(d) The following design review zone shall be established in the City: DR.

Such zone shall be in addition to and lay over the land use zones set forth in subparagraph (a), above. All real property from the junction of Mission Road and El Camino Real on the south to the junction of F Street and El Camino Real on the north, and from Junipero Serra Boulevard on the west to the City limits on the east, plus all property fronting on Mission Road, shall be in the DR zone.

(e) The zones aforesaid and the boundaries of such zones are shown upon a map filed with the City Clerk and designated "General Plan Land Use, Town of Colma, April 2008 Zoning Map". Said map and all notations, references and other information shown thereon shall be and hereby is incorporated by reference in this ordinance as if fully set forth herein.

[*History:* formerly § 5.310, ORD. 234, 3/14/79; ORD. 290, 8/10/83; ORD. 321, 7/10/85; ORD. 374, 9/14/88; ORD. 409, 3/14/90; ORD. 536, 7/8/1998; ORD. 557, 8/18/1999; ORD. 573, 4/12/00, ORD. 588, 8/15/2001; ORD 609, 12/10/03; ORD. 610, 1/14/04; ORD. 627, 4/13/05; ORD. 638, 12/14/05; ORD. 668, 5/14/08]

### **5.03.050 Zone Boundaries.**

Where uncertainty exists as to the boundaries of any zone shown on said "Zone Map", the following rules shall apply:

(a) Where such boundary is indicated as approximately following a street or alley line, such street or alley line shall be deemed to be such boundary.

(b) Where such boundary is indicated as approximately following a lot line, such lot shall be deemed to be such boundary.

(c) Where uncertainty exists, the City Council shall, by written declaration, determine the location of the zone boundary.

[*History:* formerly § 5.311; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

### **5.03.060 "G" Zone.**

(a) The following uses are generally permitted on land located within the "G" Zone:

(1) A cemetery or memorial park;

(2) Agriculture, which is primarily open field;

(3) A golf course.

(b) The following uses may be permitted by the City Council on land located in the "G" Zone upon issuance of a use permit in accordance with the procedures hereinafter set forth:

(1) Any use which now or hereafter may be customarily incident to a cemetery or memorial park use, including flower shops, monument shops, crematoriums, and cemetery corporation yards;

(2) Any use which now or hereafter may be customarily incident to agriculture use, including nurseries, agriculture or flower growing utilizing greenhouses or shade structures, firewood yard, or landscape contractors yard;

(3) Any use which now or hereafter may be customarily incident to a golf course, including clubhouse, sale of golf balls, golf shoes and clothing or golf clubs and equipment, lunch counter, conduct of "pro shop", practice range, practice green, and driving range.

(4) Wireless Communications Facilities, as regulated in Subchapter 5.17.

[*History*: formerly § 5.312; ORD. 234, 3/14/79; ORD. 325, 11/13/85; ORD. 480, 5/10/95; ORD. 520, 12/10/97; ORD. 638, 12/14/05; ORD. 728, 10/9/13]

### **5.03.070 "R" Zone.**

(a) The following uses are permitted on land located within the "R" Zone:

(1) A single family dwelling;

(2) A manufactured home;

(3) A "small family day care home", as defined in the Health and Safety Code providing family day care to six or fewer children;

(4) Second dwelling units;

(5) Supportive housing;

(6) Transitional housing; and

(7) A Home Office or Cottage Food Operation, provided that a Zoning Clearance has been issued in accordance with sections 5.03.234 or 5.03.235, and remains in effect for the property

(b) The following uses may be permitted in the "R" Zone upon issuance of a use permit in accordance with the procedures hereinafter set forth:

- (1) A multiple dwelling up to six units, provided that the proposed residential density does not exceed that specified in the Colma General Plan;
  - (2) Residential Planned Development on land identified in the Colma General Plan as suitable for residential uses, provided the proposed residential density does not exceed that specified in the Colma General Plan;
  - (3) A home occupation, as described in section 5.03.237 of this Code; and
  - (4) A "large family day care home," as defined, and pursuant to the procedures and standards set forth, in Section 5.03.085 below.
- (c) Accessory buildings may be permitted in the "R" zone as follows:
- (1) An accessory building less than 120 square feet in projected roof area and less than six feet in height is generally permitted on residential lots in the "R" zone and is not subject to setback requirements provided that such accessory building meets each of the following requirements: (A) the accessory building is not placed between any section of the front wall or foundation of the residence and the front property line, and (B) the aggregate floor area of all such accessory buildings on a single residential parcel does not exceed 120 square feet;
  - (2) An accessory building not meeting the requirements of the preceding paragraph may be administratively permitted by the Zoning Administrator in accordance with the procedures set forth in Section 5.03.520 of this Code provided that the Planner makes the findings for a use permit set forth in section 5.03.410 of this Code and, that the accessory building meets each of the following requirements: (A) each accessory building that exceeds 120 square feet in area or is greater than six feet tall must comply with the setback requirements applicable to buildings in the "R" zone; (B) the aggregate floor area of all accessory buildings on the lot may not exceed 25% of the rear yard; and (C) the accessory building meets each of the following design requirements: (i) the accessory building shall conform to each restriction set forth in section 5.03.250 for the dwelling unit on the parcel; (ii) the design of and materials used for that accessory building shall be consistent with the design of and materials used in the dwelling unit on the lot; and (iii) the accessory building shall be sited to protect the privacy and quiet enjoyment of neighboring properties and shall minimize impacts of noise, light, glare, and traffic on neighboring properties.
- (d) Wireless Communications Facilities, except those permitted pursuant to Section 5.17.010 or Section 5.17.120, are prohibited in the "R" zone.

[History: formerly § 5.313, ORD. 234, 3/14/79; ORD. 346, 3/11/87; ORD. 442, 10/14/92; ORD. 425, 7/10/91; ORD. 600 6/11/03; ORD.617, 6/16/04; ORD. 638, 12/14/05; ORD. 685,1/13/10; ORD. 706, 3/14/12; ORD. 724, 6/12/13; ORD. 728, 10/9/13]

[Authorities: Gov't Code §§ 51035, 65850, 65589.5]

**5.03.080 "R-S" Zone.**

(a) The following uses are permitted on land located within the "R-S" Zone:

- (1) Single-family dwelling;
- (2) A manufactured home;
- (3) A "small family day care home" as defined in the Health and Safety Code providing family day care to six or fewer children;
- (4) Community parks and public buildings;
- (5) Supportive housing;
- (6) Transitional housing; and
- (7) A Home Office or Cottage Food Operation, provided that a Zoning Clearance has been issued in accordance with sections 5.03.234 or 5.03.235, and remains in effect for the property.

(b) The following uses may be permitted in the "R-S" Zone upon issuance of a Conditional Use Permit and provided they comply with standards hereinafter set forth:

- (1) A home occupation, as described in section 5.03.237 of this Code;
- (2) A "large family day care home" as defined, and pursuant to the procedures and standards set forth, in Section 5.03.085 below.

(c) Existing multiple residence buildings, warehouses and other facilities not specifically listed in subparagraphs (a) and (b) above, shall be considered non-conforming uses. If warehouses or buildings housing commercial or light industrial uses are destroyed or damaged in excess of fifty percent (50%) of their market value they may only be replaced with conforming uses. If multiple residential buildings are destroyed or damaged beyond fifty percent (50%) of their market value they may be replaced with an equal number of legal units provided parking and other development standards comply with the standards set forth in this District.

(d) Legal second units, existing in conjunction with a principal residence on August 19, 1998, shall be considered legal, non-conforming uses. New second units or expansions to existing units are prohibited.

(e) Accessory buildings may be permitted in the "R" zone as follows:

- (1) An accessory building less than 120 square feet in projected roof area and less than six feet in height is generally permitted on residential lots in the "R" zone and is not subject to setback requirements provided that such accessory building meets each of the following requirements: (A) the accessory building is not placed between any section of the front wall or foundation of the residence and the front property line, and (B) the

aggregate floor area of all such accessory buildings on a single residential parcel does not exceed 120 square feet;

(2) An accessory building not meeting the requirements of the preceding paragraph may be administratively permitted by the Zoning Administrator in accordance with the procedures set forth in Section 5.03.520 of this Code provided that the Planner makes the findings for a use permit set forth in section 5.03.410 of this Code and , that the accessory building meets each of the following requirements: (A) each accessory building that exceeds 120 square feet in area or is greater than six feet tall must comply with the setback requirements applicable to buildings in the "R" zone; (B) the aggregate floor area of all accessory buildings on the lot may not exceed 25% of the rear yard; and (C) the accessory building meets each of the following design requirements: (i) the accessory building shall conform to each restriction set forth in section 5.03.250 for the dwelling unit on the parcel; (ii) the design of and materials used for that accessory building shall be consistent with the design of and materials used in the dwelling unit on the lot; and (iii) the accessory building shall be sited to protect the privacy and quiet enjoyment of neighboring properties and shall minimize impacts of noise, light, glare, and traffic on neighboring properties.

(f) The following uses are specifically prohibited in the "R-S" Zone:

(1) Wireless Communications Facilities, as regulated in Subchapter 5.17, except those permitted pursuant to Section 5.17.010 or Section 5.17.120.

(2) Churches

(3) Schools

(4) Commercial and Light Industrial uses

[History: formerly § 5.313.1, ORD. 536, 7/8/98, ORD. 617, 6/16/04; ORD. 638, 12/14/05; ORD. 685, 1/13/10; ORD. 706, 3/14/12; ORD. 724, 6/12/13; ORD. 728, 10/9/13]

[Authorities: Gov't Code §§ 51035, 65850, 65589.5]

### **5.03.085 Large Family Day Care Homes.**

(a) *Findings.* In adopting this section, the City Council hereby finds as follows:

(1) This Section establishes standards for permitting large family day care homes within the Town of Colma in compliance with state law, recognizing the limitations on the Town's authority to regulate these facilities.

(2) For purposes of this Section, "state law" shall mean and refer to the California Child Day Care Facilities Act (Health & Safety Code § 1596.70 *et seq.*), and the accompanying California Code of Regulations, and a "large family day care home" shall mean a home licensed by the State Department of Social Services or designee pursuant to state law that provides family child care for up to 12 children, or for up to 14 children including children under the age of 10 who reside at the home or are the children of an

assistant childcare provider, for periods of less than 24 hours a day while the parents or guardians are away.

(3) The standards and regulations imposed by the Town in subsection (c) are necessary to minimize the impacts of this land use on surrounding residents, as follows:

- (i) The "concentration" standards in subsection (c)(3) are implemented to minimize traffic, parking and noise impacts on Colma residential districts which are high density with smaller minimum lot sizes than many other California communities. Residential densities in the region, for suburban neighborhoods with detached single family homes, range from 4.0 units per gross acre (1/4 acre lots) to about 8.7 units per gross acre (5,000 sq. ft. lots). Colma's small minimum lot size, 33-1/3 x 100 feet, results in a residential density of 13.1 units per gross acre which is already a comparatively high density for a single family neighborhood. Allowing large care family homes in close proximity with each other would result in an extremely high density inconsistent with the surrounding region. A minimum distance of 300 feet between homes, results in roughly one large family day care home per 1.5 to 2 acres.
- (ii) The "traffic control/parking" regulations in subsection (c)(4) are implemented to provide adequate pick-up and drop-off areas in order to: (1) protect the safety of children being picked up and dropped off for care; (2) ensure that vehicles reentering arterial streets do so in a forward manner for the safety of patrons of the large family day care home and other motorists; (3) ensure that street traffic is not unduly interrupted; (4) minimize adverse parking impacts on residential streets that already face limited parking; and (5) prevent blockage of sidewalks and neighboring driveways. Streets in Sterling Park typically measure 30 feet between the face of the curb on opposite sides of the street. Emergency vehicles must be able to gain access to all parts of the area without unnecessary delays. Regulations that allow only single-family detached residences as infill to Sterling Park will prevent overcrowded use of the streets in the area which in turn would allow unrestricted use of the streets by emergency vehicles and will promote public safety. The City Council also finds that there is high demand for available on-street parking spaces on both sides of streets in the Sterling Park neighborhood resulting in a narrowed travel way and an existing, restricted sight distance for motorists. The addition of large care family homes in close proximity to each other would generate additional motor vehicles, adding to the parking congestion problem and intensifying the existing public safety problem.
- (iii) The "noise" regulations in subsection (c)(5) are implemented to protect adjoining residential dwellings from noise impacts commonly associated with this use.
- (iv) Sterling Park is an existing, relatively high density residential neighborhood with minimal public park and open space. Residents must

rely heavily on private yards for outdoor open space. Regulations that allow only single-family detached residences as infill to Sterling Park will preserve the public peace and promote public safety by preventing competition between tenants from adjacent units over available open space on the same parcel.

(b) *Procedure for Issuance of Use Permit/Appeal.* A large family day care home may be permitted in the "R" or "R-S" zone on any lot zoned for a single family dwelling, upon issuance of a use permit by the City Planner in accordance with the procedures and requirements set forth below.

(1) The application for such use permit shall be on a form provided by the City Clerk and shall be submitted to the City Planner accompanied by an application processing fee. The use permit application shall be processed as economically as possible and the processing fee shall, in no event, exceed the costs of the application review and permit process. An applicant may make a written request for verification of the application processing fees charged, and the Town shall provide a written breakdown of fees charged within 45 days of such request.

(2) The City Planner shall issue said use permit if the City Planner determines that the large family day care home will comply with the requirements set forth below relating to such homes and with all other applicable state and local laws, rules and regulations, including without limitation, fire regulations.

(3) Not less than ten (10) days prior to the date on which the City Planner will determine whether to issue the use permit, the City Planner shall give written notice of the proposed use by mail or delivery to all property owners within a 300-foot radius of the exterior boundaries of the proposed large family day care home at the addresses shown on the last equalized assessment roll. No hearing on the application shall be held prior to the City Planner's decision unless a hearing is requested by the applicant or other affected person. If a hearing is requested, the City Council shall hold such hearing at its next regularly scheduled City Council meeting, and shall issue said use permit if it determines that the large family day care home will comply with all requirements set forth in Section (b)(2) above.

(4) The applicant or any other affected person may appeal the City Planner's or the City Council's decision to the City Council within ten (10) days of that decision in accordance with the procedures set forth in section 1.02.270 of the Colma Municipal Code. On the appeal, the City Council shall hear the use permit application *de novo* and shall make an independent judgment to grant or deny the application. The appellant shall pay the cost, if any, of the appeal.

(c) *Standards and Requirements for Granting Use Permit.* In order to grant a use permit for a large family day care home, the City Planner or City Council must find that the home will comply with the standards and requirements set forth below:

(1) *License.* The provider of child care shall possess a current and valid Large Family Child Care Home license from the State of California, Department of Social Services. The Town's Use Permit shall not become effective until such time as the State



license is obtained. If said license is suspended or revoked by the State for any reason, the Town's Use Permit for a Large Family Child Care Home shall immediately be suspended or revoked to the same extent.

(2) *Incidental Use.* The facility is the residence of the provider and the use is clearly incidental and secondary to the use of the property for residential purposes.

(3) *Concentration:* No more than one (1) Large Family Day Care Home may be established within a 300 foot radius of another such use.

(4) *Traffic Control/Parking:*

(i) In addition to the minimum parking requirements for single family residences in the R and RS Zones set forth in Sections 5.03.250 and 5.03.260 respectively, where the large family day care home is located on a parcel having less than 22 feet of legally permitted on-street parking along the frontage of the parcel, or is located within a preferential parking area, the home shall provide: (1) one additional standard parking space, as defined in Section 5.01.080 of this Code, and one additional driveway space; or (2) two additional standard parking spaces, that shall be available during drop-off (6:00 a.m.-9:00 a.m.) and pick-up (4:00 p.m.-8:00 p.m.) hours to ensure that the children are not placed at risk and street traffic is not unduly interrupted. The required driveway parking spaces may be in tandem with the on-site garage spaces, in compliance with Section 5.03.260(b) of this Code.

(ii) Any home located on an arterial street shall have adequately designed off-street drop-off and pick-up areas, or an adequately designed off-street turn around area to ensure that vehicles reentering the arterial street will be able to do so in a forward manner.

(iii) In addition to the minimum parking requirements for single family residences in the R and RS Zones set forth in Sections 5.03.250 and 5.03.260 respectively, a large family day care home shall provide one additional parking space for each employee not living at the residence. The residential driveway approach may serve as this additional parking space if the parking space will not conflict with any required child drop-off/pick-up area and does not block the public sidewalk or right-of-way.

(iv) The large family day care home operation shall not result in cars blocking neighbors' driveways.

(5) *Noise:* In order to protect adjoining residential dwellings from noise impacts, a large family day care home within any residential zoning district may only operate up to 14 hours each day between the hours of 6:00 a.m. and 8:00 p.m. and may only conduct outdoor activities between the hours of 8:00 a.m. and 7:00 p.m.

(6) *Fire and Safety Standards:* A large family day care home shall contain a fire extinguisher and smoke detectors on every floor and shall comply with all applicable

requirements of the Colma Fire Protection District and all applicable regulations of the California State Fire Marshal designed to promote the fire and life safety of the children in these homes, including without limitation, those adopted pursuant to California Health and Safety Code Section 1597.46(e) and those published in Title 24 of the California Code of Regulations.

(7) *Smoking.* Smoking shall be prohibited during hours of operation by any person in all interior areas of a Large Family Day Care Home, and in all exterior areas while children are also present in such exterior area.

(8) *Signs.* On-site signs shall be in compliance with Chapter 4.07, Regulating Signs.

(9) Each home shall be inspected by the Town for compliance with the Uniform Housing Code and any regulations adopted by the State Fire Marshal which are applicable to large family day care homes.

(10) In making a decision on a use permit application, the City Planner or City may consider and specify other reasonable conditions that relate to parking, traffic, noise and spacing and concentrations of large family child care homes.

(d) Use of a single-family dwelling for the purposes of a Large Family Day Care Home shall not constitute a change of occupancy for purposes of State Housing Code, Section 17910, *et seq.*, or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and Town of Colma Building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to the Health and Safety Code.

### **5.03.090 "C" Zone.**

(a) The following use is permitted in the "C" zone: an emergency shelter.

(b) Uses Allowed in the "C" Zone upon issuance of an administrative use permit.

(1) The uses allowed in the "C" Zone with the issuance of a user permit pursuant to Section 5.03.090(c) may be permitted upon issuance of an administrative use permit, instead of a use permit, if the proposed use meets all of the following criteria:

- A. Will occupy an existing commercial building or occupy a tenant space within an existing commercial building; and
- B. Is within the same Building Code occupancy classification of the existing building; and
- C. Does not require any building modifications; and
- D. Will not exceed the available on-site parking.

(2) This section shall not apply to the following uses, all of which still require a use permit pursuant to Section 5.03.090 (c):

- A. Uses which convert existing warehouse or light industrial space to office;
- B. Uses which convert existing warehouse or light industrial space to auto repair;
- C. Uses which convert retail space to a restaurant or bar; and
- D. Uses which convert warehouse or light industrial space to a use where hazardous materials use requires review by the San Mateo County Environmental Health Department based on responses to questions on their Hazardous Materials Notification Form.

(c) The following uses may be permitted in the "C" Zone upon issuance of a use permit in accordance with the procedures set forth:

- (1) A commercial establishment;
- (2) A single family dwelling or a multiple dwelling up to six units, provided the proposed residential density does not exceed that specified in the Colma General Plan;
- (3) Residential Planned development on land identified in the Colma General Plan as suitable for residential uses, provided the proposed residential density does not exceed that specified in the Colma General Plan;
- (4) Supportive housing;
- (5) Transitional housing;
- (6) A light industrial establishment;
- (7) Communications structures;
- (8) Commercial center;
- (9) Retail Merchandising Unit; and
- (10) Such other uses which are found by the City Council to be of a similar nature to the above described uses.

[History: formerly § 5.314; ORD. 234, 3/14/79; ORD. 309, 2/13/85; ORD. 425, 7/10/91; Ord. 506, 3/12/97; ORD. 638, 12/14/05; ORD. 720, 5/8/13; ORD. 728, 10/9/13; ORD. 737, 1/14/15; ORD. 758, 2/24/16]

**5.03.100 "DR" Combining Zone.**

The "DR" Design Review zone may be combined with all base zones to achieve a consistent site, landscape and building design theme in those areas where it is applied.

[History: formerly § 5.315; ORD. 500, 10/9/96; ORD. 638, 12/14/05]

**5.03.110 "P" Zone.**

(a) The following uses are permitted in the "P" Zone:

- (1) Public buildings and parks, and any uses incident thereto; and
- (2) Municipal supported senior housing.

(b) Wireless Communications Facilities, as regulated in Subchapter 5.17, may be permitted in the "P" Zone upon issuance of a use permit in accordance with the procedures herein set forth.

[History: formerly § 5.316; ORD. 234, 3/14/79; ORD. 459, 10/13/93; ORD. 638, 12/14/05; ORD. 728, 10/9/13]

**5.03.120 "E" Zone.**

(a) The following uses are generally permitted on land located within the "E" Zone:

- (1) A cemetery or memorial park;
- (2) Floriculture or agriculture.

(b) The following uses may be permitted by the City Council on land located in the "E" Zone upon issuance of a use permit in accordance with the procedures hereinafter set forth:

- (1) Nurseries;
- (2) Flower Shops;
- (3) Monument Shops;
- (4) Medical Service Offices where medical, dental or veterinarian consultation, treatment and/or advice is dispensed on an outpatient basis;
- (5) Professional Business Offices where professional or technical business services are offered and/or where the administrative management function of a business is performed and where no external signing is required;
- (6) Restaurants; provided that banquet facilities are included capable of accommodating 50 or more persons separated from the principal dining facilities.
- (7) Such other uses as the Council finds are of a similar nature to the specified uses.

(c) Wireless Communications Facilities, as regulated in Subchapter 5.17, except those permitted pursuant to Section 5.17.010 or Section 5.17.120, are specifically prohibited in the "E" Zone.

[History: formerly § 5.317; ORD. 234, 3/14/79; ORD. 321, 7/10/85; ORD. 372, 7/13/88; ORD. 638, 12/14/05; ORD. 728, 10/9/13]

### **5.03.130 "PD" Zone.**

(a) A "PD" zone may be established to allow flexibility of design which is in accordance with the objectives and spirit of the General Plan.

(b) The following uses are permitted within the "PD" Zone upon issuance of a use permit in accordance with the procedures hereinafter set forth:

- (1) Single family residential developments;
- (2) Multiple housing developments;
- (3) Neighborhood and community commercial centers;
- (4) Professional and administrative offices; or
- (5) A combination of such uses.

(c) Wireless Communications Facilities, as regulated in Subchapter 5.17, except those permitted pursuant to Section 5.17.010 or Section 5.17.120, are specifically prohibited in the "PD" Zone.

[History: formerly § 5.319; ORD. 234, 3/14/79; ORD. 264, 9/17/81; ORD. 638, 12/14/05; ORD. 728, 10/9/13]

### **5.03.140 Establishment of PD Districts.**

PD Districts may be established in any R, E, or C Zone upon application of a property owner or owners, or upon the initiative of the City Council.

[History: formerly § 5.320, ORD. 264, 9/17/81; ORD. 638, 12/14/05; ORD. 721, 5/8/13; ORD. 723, 6/12/13]

### **5.03.150 Conceptual Development Plan Required.**

(a) An application for the establishment of a PD District shall be accompanied by a Conceptual Development Plan which, if approved by the City Council, shall become a part of the Zoning Map of the Town of Colma.

(b) Said Conceptual Development Plan shall show the following information, presented in a schematic form and at a scale satisfactory to the City Planner, with a reduced reproducible print of the proposed drawing suitable for publication purposes:

- (1) Proposed land uses;
- (2) Location of buildings, structures and building groups;
- (3) A tabulation of proposed dwelling unit density in residential areas;
- (4) A tabulation of floor area ratios and the maximum heights of proposed buildings;
- (5) Proposed circulation systems, including preliminary street cross sections;
- (6) Proposed parks, playgrounds, school sites and other open spaces;
- (7) Location and type of existing and proposed landscaping;
- (8) An economic feasibility analysis of proposed commercial uses;
- (9) Delineation of the major units within the development to be constructed in progression;
- (10) Relation to future land use in surrounding area as proposed in the General Plan;
- (11) Proposed off-street parking;
- (12) Proposed storm drainage facilities.

(c) The City Council may require such other information which, combined with the information submitted, shall be for the purpose of ascertaining substantial conformity with the adopted General Plan. The City Council shall make the following findings prior to approval of the Conceptual Development Plan:

- (1) That the proposed uses are, in substantial part, generally or conditionally permitted under the zoning classification for the proposed district in existence at the time of the application;
- (2) That the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;
- (3) That the streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and the density will not generate traffic in such amounts as to overload the street network outside the PD District.
- (4) That any proposed development can be economically justified at the locations proposed;
- (5) That the impact created by the development can be absorbed and serviced by the City (police and fire service, water supply, sewage disposal, etc.).

(d) The City Planner may require the submittal of a topographic model of the proposed district to an accurate scale. Both horizontal and vertical scales shall be the same. The scale

and detail of the model shall be sufficient to accurately illustrate the appearance of the total final development. The City Planner shall approve the scale of the model in writing prior to its construction. The following proposed items shall be included on the model:

- (1) Final topography of the district after grading;
- (2) Street system;
- (3) Location and bulk of buildings and structures;
- (4) Lot design;
- (5) Parks, playgrounds, school sites and other open spaces;
- (6) Parking and loading areas;
- (7) Location of existing and proposed major landscaping.

(e) An application for establishment of a PD District shall be accompanied by a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution, for each proposed dwelling unit and each proposed commercial establishment shown in the Conceptual Development Plan. Said fee shall be in lieu of the fees prescribed in this Code for an amendment to the zoning map, for a variance, and for a use permit.

[*History*: formerly § 5.321, ORD. 264, 9/17/81; ORD. 524 1/14/1998; ORD. 638, 12/14/05]

### **5.03.160 Conditional Uses.**

A Use Permit shall be required for any and all uses in a PD District. A Detailed Development Plan, as described in 5.03.170, shall be submitted as part of the application for a Use Permit. The Council shall not grant a Use Permit for any use or uses in a PD District unless it finds that:

- (a) Each of the standards set forth in section 5.03.410 have been met;
- (b) The use or uses as shown on the Detailed Development Plan are the same as the use or uses shown on the approved Conceptual Development Plan.

[*History*: formerly § 5.322; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

### **5.03.170 Detailed Development Plan Required.**

(a) An application for a Use Permit in a PD District shall include and be accompanied by a Detailed Development Plan which, if approved by the City Council, shall become a part of the Use Permit. The Detailed Development Plan shall contain certifications that a Design Professional or group of Design Professionals have participated in its preparation. Design Professional means a civil engineer, landscape architect, architect, registered building designer, or city planner who is a member of the American Institute of Certified Planners. Compliance with the requirements of this section shall not be construed as relieving the applicant from compliance with the Subdivision Ordinance or other applicable ordinances of the Town of Colma.

- (b) The Detailed Development Plan shall include:
- (1) A map showing any street system and lot design proposed within the District, and any areas proposed to be dedicated or reserved for parks, parkways, playgrounds, school sites, public buildings, and other such uses;
  - (2) A map showing the existing topography and the proposed finished grading of the District at one-foot contour intervals on areas of a cross slope of less than 5 per cent; at two-foot contour intervals on areas of a 5 to 10 per cent cross slope; at five-foot contour intervals on areas exceed 10 per cent cross slope. (For the purpose of this section, the cross slope of an area is defined to be the ratio expressed as a percentage of the vertical difference in elevation to the horizontal distance between any two points, with the line connecting the two points being essentially perpendicular to the contours between the two points. The City Council shall have the authority to determine the cross slope of an area and shall also have the authority to designate different portions of the District as having different cross slopes.);
  - (3) A plot plan for each building site or sites in the proposed PD District, the location of all proposed buildings, with a statement of the maximum and minimum distances between buildings and the property or building site lines;
  - (4) A detailed tabulation of the resultant densities of persons, dwelling units, floor area ratios and height or structures;
  - (5) Off-street parking and loading plan;
  - (6) A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the PD District, and to and from adjacent public thoroughfares, and any special engineering features and traffic regulation devices needed to facilitate or insure the safety of the circulation pattern;
  - (7) Landscaping and tree planting plan showing the approximate location and type of plant materials to be installed;
  - (8) Detailed engineering site plans, including proposed finished grades and all public improvements;
  - (9) Detailed engineering plans for the provisions of public utilities for the site, including provisions for off-site connections and facilities necessary to serve the site;
  - (10) Elevations and perspective drawings of all proposed structures. (Such drawings need not be the result of the final architectural decisions and need not be in detail. The purpose of such drawings is to indicate within stated limits the height of the proposed buildings and the general appearance of the proposed structures, to the end that the entire development will have architectural unity and be in harmony with surrounding developments);
  - (11) A written statement describing the disposition of recreation and open space areas, including proposals for ownership, development and maintenance of such spaces;



(12) Detailed engineering plans for the provisions of storm drainage facilities.

[*History:* formerly § 5.323; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

**5.03.180 Design Standards.**

The following design standards shall be established as shown on the Detailed Development Plan for the particular PD District as approved by the City Council. Said design standards shall become a part of the Use Permit:

- (a) Minimum building site;
- (b) Minimum lot dimensions;
- (c) Maximum building site coverage by buildings and structures;
- (d) Minimum yards;
- (e) Maximum building or structure heights;
- (f) Maximum height of fences and walls;
- (g) Signs;
- (h) Off-street parking.

[*History:* formerly § 5.324; ORD. 264, 09/17/81; ORD. 638, 12/14/05]

**5.03.190 Open Space and Density.**

Open space and density shall be as shown on the Detailed Development Plan for the particular PD District as approved by the City Council.

[*History:* formerly § 5.325; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

**5.03.200 Amendment of Development Plan.**

(a) Changes in the Conceptual Development Plan shall be considered the same as changes in the Zoning Map and shall be made in accordance with the procedures set forth in section 5.03.480 of this Code.

(b) Changes in the Detailed Development Plan shall be considered the same as changes to the Use Permit and shall be made in accordance with the procedures set forth in section 5.03.400 of this Code.

[*History:* formerly § 5.326; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

### **5.03.210 Development Schedule.**

An application for a Use Permit in a PD District shall be accompanied by a development schedule indicating to the best of the applicant's knowledge the approximate date on which construction of all facets of the entire project can be expected to begin, the anticipated rate of development, and completion date. The development schedule, if approved by the City Council, shall become a part of the Detailed Development Plan and shall be adhered to by the owner of the property in the PD District, and his successors in interest.

[*History:* formerly § 5.327; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

### **5.03.220 Revocation of Use Permit.**

If, in the opinion of the City Council, the owner or owners of property in a PD District are failing or have failed to meet an approved development schedule, the City Council may initiate proceedings under section 5.03.430 of this Code to revoke the applicant's Use Permit until such time as the applicant conforms to the conditions thereof. For good cause shown by the property owner, in writing, prior to the expiration of the original development schedule, the City Council may extend the limits imposed by the development schedule in accordance with section 5.03.420 of this ordinance.

[*History:* formerly § 5.328; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

### **5.03.230 Minor, Short-term, and Temporary Uses.**

(a) The Zoning Administrator may grant a Minor Use Permit in accordance with the procedures set forth in the section of this subchapter entitled, "Administrative Permits," upon finding that:

- (1) The proposed activity is exempt from CEQA review;
- (2) The proposed use or activity will not pose any significant land use consequences;
- (3) The proposed use or activity has direct access from a major or secondary thoroughfare;
- (4) Provision has been made to minimize noise and dust from the activity;
- (5) The property and principal building thereon is not in violation of any applicable zoning or building codes;
- (6) The granting of the permit will not be detrimental to the public health, safety or public welfare, or materially injurious to properties or improvements in the vicinity;
- (7) Existing property uses, large or small, will not be detrimentally affected by the proposed use;
- (8) The granting of the permit will not constitute a grant of special privilege inconsistent with the limitations imposed by this subchapter on the existing use of properties, large or small, within the Town of Colma; and

(9) The proposed use will not constitute a nuisance as to neighboring persons or properties.

(b) The Zoning Administrator may impose such conditions on the issuance of the Administrative Use Permit as may be reasonably necessary to implement the purposes and intent of the Town's General Plan and Zoning Ordinance, including a condition that the permit holder post a bond or other security to guarantee compliance with this ordinance and the permit.

[History: formerly § 5.329, ORD. 563, 10/18/99; ORD. 638, 12/14/05; ORD. 713, 10/10/12]

### **5.03.232 Home Office Use – Purpose and Recitals.**

(a) Prior to the adoption of sections 5.03.232, *et seq.*, relating to Home Office uses, the City Council could allow the incidental use of a residence for a dwelling unit by a resident of the premises only by granting a Conditional Use Permit. The process of obtaining a use permit for a home office use is a time-consuming, costly process. Yet, in most cases, the City Council found that the proposed home office use was compatible with the use of surrounding properties and consistent with the residential nature of the area. In these cases, the City Council would approve the application for a home office permit, usually with a substantially similar set of conditions.

(b) The City Council desires to streamline the process for allowing the incidental use of a residence for a dwelling unit consisting solely of the use of office furniture and equipment therein by a resident of the premises while retaining the ability to deny applications by certain business activities or for certain uses that may be injurious and inimical to the public health, safety and welfare of the residents of the City, or will contribute substantially and increasingly to the deterioration of neighborhoods.

(c) Thus, the purposes of this sub-chapter are to:

(1) Allow a resident to use a dwelling unit for a home office use, as defined herein, upon obtaining a Zoning Clearance issued by the Zoning Administrator, instead of obtaining a use permit; and

(2) Require that a conditional use permit be obtained for certain business activities or for certain uses as a means to prevent uses that may be injurious and inimical to the public health, safety and welfare of the residents of the City, or will contribute substantially and increasingly to the deterioration of neighborhoods.

(d) Prohibition of a non-conforming activity or use is in the best interest of the health, safety and welfare of the residents of the Town because maximum use and enjoyment of properties closely proximate to one another depends upon limitations on commercial and other uses within residential areas. The beneficial effects of maintaining a minimum standard of residential activities include, but are not limited to, appreciation of property values, physical improvement of residential and commercial areas, attraction of investors of capital to residential and commercial zones, increase in commercial trade and increase in the tax base of the City.

(e) This subchapter is consistent with the Town of Colma General Plan, which provides in section 5.02.121, that, "Colma's plan allows for a mix of residential types and unit sizes to occur. Land designated for residential purposes can be used for single family homes and small day care facilities as allowed uses. Home occupations and large child care facilities may be allowed subject to a Use Permit."

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12]

### **5.03.233 Home Office Use – Scope; Prohibition.**

(a) This subchapter applies to all dwelling units in the City regardless of each dwelling unit's respective zoning designation.

(b) No person may use any part of a dwelling unit as an office for business purposes except:

(1) after the Zoning Administrator has issued a Zoning Clearance for a Home Office Use for the property, and only so long as the property is being used in compliance with the provisions of the Colma Zoning Code; or

(2) after the City Council has granted a Conditional Use Permit for a Home Occupation Use for the property, and only so long as the property is being used in compliance with the provisions of the Colma Zoning Code.

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12]

### **5.03.234 Home Office Use – Zoning Clearance; Prohibited Activities.**

(a) The Zoning Administrator shall issue a Zoning Clearance for a Home Office Use upon making a finding, based on substantial evidence, that:

(1) the building is a legal dwelling unit in a location zoned for residential use;

(2) a resident of the dwelling unit will use the home office either as an office or a place of instruction;

(3) the Home Office Use will not include any use or activity that is prohibited by subsection (b) of this section;

(4) the Home Office will conform to the building requirements and space limitations set forth in subsection (c) of this section; and

(5) the Home Office Use will not include any use or activity that is not incidental to or incompatible with residential activities.

(b) The following uses or activities are prohibited in, on or about a dwelling unit for which a Zoning Clearance has been issued for a Home Office Use:

(1) *Changes to Residential Character.* A home office use that interferes with, frustrates, or obstructs the primary use of the property as a residence or which changes

the color, material, construction or lighting of the premises to attract business is prohibited.

(2) *Parking or storing commercial vehicles and attachments.* A vehicle used primarily in connection with the Home Office use shall not be parked, stopped or stored on the subject property or on any public street in the "R" or "R-S" zone in the Town. Equipment attached to a vehicle used primarily in connection with the Home Office Use shall not be parked, stopped or stored on the subject property or on any public street in the "R" or "R-S" zone in the Town.

(3) *Direct Sales Prohibition.* Use of a home office or dwelling unit for the direct sales of goods, merchandise, or services is prohibited except by mail, telephone or other mode of electronic communication and where no merchandise is physically delivered to, sent from, or stored at the premises.

(4) *Sales of Illegal or Regulated Items and Services.* Use of a home office or dwelling unit for the illegal sale, either direct or indirect, is prohibited. Examples include but are not limited to: sale of firearms [as defined by Penal Code Section 12001(b)]; sale of hazardous materials, fireworks or explosives; sale of alcoholic beverages made on the premises or elsewhere; sale of prescription medications or narcotics; sale of illegally imported items; and appointments for massage or escort services.

(5) *Environmental Disturbances.* Use of a home office or dwelling unit to emit, release, cause or create any of the following, or permitting the use of a home office or dwelling unit to emit, release, cause or create any of the following is prohibited: objectionable noise [in excess of 45 decibels, "A" weighted day-night level or dBA(LDN)], electrical or magnetic interference, vibration, release of particulate matter, odor, heat, humidity, glare, refuse, radiation, interference with the transmission of communications, interference with radio or television reception, or other objectionable emissions, effects or hazards, which increase these effects above the local ambient level or create a potential danger to the community.

(6) *Equipment and Furniture.*

- (i) Where the dwelling is used an office, only office equipment, such as facsimile machines, table-top copy machines, phones, personal computers, laptops, and electronic tablets, and office furniture are permitted;
- (ii) Where the dwelling is used for music lessons, only musical instruments and office furniture are permitted;
- (iii) Machinery and equipment not normally found in a residence are not permitted in a home office.

(7) *Manufacturing and Fabrication Equipment.* The manufacture or fabrication of goods is prohibited.

(8) *Place of Instruction Limitations.* Use of a home office as a place of instruction is limited as follows:

- (i) There shall not be more than two students at a time and not more than six students per day at the dwelling unit;
- (ii) All lessons shall be by appointment only, and recitals are not permitted; and
- (iii) lessons shall be in a subject taught at an accredited grammar or high school or in playing a musical instrument, such as the piano or guitar.

(9) *Nonresident Employees.* Use of a home office or dwelling unit by an employee not residing on site to conduct business is prohibited, except that this prohibition does not apply to a domestic servant, such as a maid, gardener, or babysitter, who has been hired to assist in maintaining the household or caring for a resident.

(10) *Signage.* No person may install or permit a sign for a home office use that is not in conformance with the regulations for the district in which the business is located.

(11) *No Business Guests.* The Permittee shall not receive any clients, customers vendors, subcontractors or other persons intending to transact business at the Subject Property. Permittee shall not allow any employees or independent contractors working for Permittee in connection with the Home Office Use to work or congregate at or around the Subject Property.

(12) *On-Site Client or Business Associate Meeting.* Use of a home office or dwelling unit for an on-site client visit or meeting is prohibited. All meetings between or among clients, business associate or employees shall be conducted off-site from the dwelling unit.

(13) *Hazardous Material Storage or Use.* Hazardous chemicals or substances not normally found at a residence, such as cleaning supplies, laundry supplies or garden chemicals in quantities appropriate for single dwelling use, are prohibited.

(c) *Building and Structural Requirements.*

(1) *Enclosure.* All activities related to the home office use must be conducted within the enclosed, livable area of the premises.

(2) *Area.* The maximum area that may be used for a home office shall not exceed 200 square feet.

(3) *Structure.* A dwelling unit may not have an entrance to a space devoted to a home office use that is not from within the building, or with internal or external alterations or construction features not customary in dwellings.

(4) *Garage.* The use of the garage or carport of a dwelling unit to store merchandise or equipment or to conduct any business activity is prohibited.

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12]

**5.03.235 Home Office Use – Zoning Clearance Process.**

(a) The Zoning Administrator shall issue a Zoning Clearance for a Cottage Food Operation Use upon making a finding, based on substantial evidence, that:

- (1) the building is a legal dwelling unit in a location zone for residential use;
- (2) a resident of the dwelling unit will be the Cottage Food Operator;
- (3) the Cottage Food Operation Use has met the registration requirements for a "Class A" operation or the permitting requirements for a "Class B" operation from San Mateo County Environmental Health Department and complies with the California Health and Safety Code by providing the appropriate documentation from the San Mateo County Environmental Health Department;
- (4) the Cottage Food Operation Use will not include any use or activity that is prohibited by subsection (c) of this section;
- (5) the Cottage Food Operation will use only the existing, legally permitted, kitchen in the unit for production; and
- (6) the Cottage Food Operation Use will not include any use or activity that is not incidental to or incompatible with residential activities.

(b) The Zoning Clearance shall be conditioned on:

- (1) The Cottage Food Operator maintaining his or her "Class A" Cottage Food Operations registration or "Class B" Cottage Food Operations permit in good standing;
- (2) The Cottage Food Operation being in full and complete compliance with each of the requirements in Health and Safety Code section 114365; and
- (3) The Cottage Food Operations be in full and complete compliance with each of the requirements in this section.

(c) The following uses are restricted or prohibited in, on or about a dwelling unit for which a Zoning Clearance has been issued for a Cottage Food Operation Use:

- (1) *Direct Sales.* To minimize the traffic and parking impacts to Colma's residential neighborhoods, which have narrow lots normally only 33.33' wide and limited street parking, not more than two customers are allowed on the site at any given time. Direct sales may only occur between the hours of 8:00 am and 6:00 pm, Monday through Friday, and between the hours of 9:00 am and 5:00 pm, Saturday and Sunday.
- (2) *Gross Annual Sales.* No Cottage Food Operation may exceed the following in gross annual sales: \$35,000 or less in gross sales in 2013; \$45,000 or less in gross sales in 2014; and \$50,000 or less in gross sales in 2015.

(3) *Employment.* No Operation may have more than one full-time equivalent cottage food employee, not including an immediate family member or household member of the cottage food operator. Within three months of registering with the County, the cottage food operator shall supply the City with proof that all persons who prepare or package cottage food products at the permitted CFO have completed a food processor course instructed by the California Department of Public Health.

(4) *Concentration of Operations.* No Cottage Food Operation shall be located closer than five hundred (500) feet to any other Cottage Food Operation due to the potential to significantly impact parking in Colma's residential neighborhoods.

(5) *Signage.* No Cottage Food Operation shall be allowed signage.

(6) *Delivery Vehicles.* Only the operator's vehicle normally used for domestic purposes shall be used for deliveries. The delivery vehicle shall not be heavier than 10,000 pounds in gross weight. The delivery vehicle shall only be loaded or unloaded between 7:00 a.m. and 7:00 p.m. Monday through Friday.

(7) *No On-site Consumption.* No food items produced on-site and sold to customers shall be consumed on the property where the sale was made, or on the sidewalk or street adjacent to the property.

(8) *Enclosure.* All activities related to the Cottage Food Operation, including sales, use must be conducted within the enclosed, livable area of the premises.

(9) *Garage.* The use of the garage or carport of a dwelling unit to store merchandise or equipment or to conduct any business activity is prohibited.

(10) *Traffic.* The Cottage Food Operator shall not conduct or permit operations in a manner that would generate traffic in greater volumes than would normally be expected in a residential neighborhood or increase parking demands on the street on which the residential unit is located.

(d) The issuance of a Zoning Clearance shall be conditioned on the applicant obtaining a Town Business Registration within ten days and maintaining the registration in effect at all times.

(e) The Zoning Administrator may, after a hearing, revoke a Zoning Clearance for a Home Office for failure to comply with any of the provisions in this ordinance. Written notice of the revocation proceeding shall be posted on the three (3) official bulletin boards of the Town of Colma and mailed to the owner of the affected property at the address for which the Zoning Clearance was issued and, if different, at the address shown on the last tax roll of San Mateo County, at least ten (10) days before the hearing. In lieu of revocation, the Zoning Administrator may attach conditions to the Zoning Clearance.

(f) A decision by the Zoning Administrator to deny an application for a Zoning Clearance for Home Office Use or to revoke a Zoning Clearance for a Home Office Use shall be in writing, explaining the reasons therefore. The applicant may appeal the decision to the City Council in accordance with the procedures set forth in section 1.02.270 of this Code.



[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12; ORD. 724, 6/12/13]

[Authorities: Gov't Code §§ 51035, 65850; Health and Safety Code §§ 114365, 114365.2]

**5.03.236 Home Occupation Use – Conditional Use Permit Required.**

(a) Any occupant within the Town of Colma desiring to use their dwelling unit for a Home Office use or Cottage Food Operation use shall make an application to the Planning Department for a Zoning Clearance and pay the applicable processing fee. The application shall describe the business for which the home will serve as an office and the activities to be conducted at the dwelling unit. The occupant will certify in writing that the dwelling unit will not be carrying out any of the activities under Prohibited Activities for Home Offices or Cottage Food Operations enumerated above.

(b) The issuance of a Zoning Clearance shall be conditioned on the applicant obtaining a Town Business Registration within ten days and maintaining the registration in effect at all times. At the time of submission of annual Business Registration renewals, the Cottage Food Operator shall submit a copy of a valid San Mateo County Environmental County Health Department permit demonstrating permission to operate a cottage food operation. Any lapse in either Business Registration renewals or a County permit will require a new application for a Zoning Clearance once the use resumes.

(c) The Zoning Administrator may summarily suspend a Zoning Clearance for a Cottage Food Operation if the operation becomes an immediate threat to the public health or safety, or if the cottage food operator's "Class A" registration or "Class B" permit is suspended or invalid. This suspension shall remain in effect until the condition causing the suspension has been remedied. The Cottage Food Operator may, within seven days of receipt of the notice of suspension, submit a written request to the City Clerk for an informal conference with the Zoning Administrator to provide the Operator with an opportunity to present an oral request to overturn the notice of suspension. The informal conference shall be non-evidentiary, and witnesses are generally not permitted. However, the Operator may convey all information supporting his or her case without regard for the rules of evidence.

(d) The Zoning Administrator may, after a hearing, revoke a Zoning Clearance for failure to comply with any of the provisions in this ordinance. Written notice of the revocation proceeding shall be posted on the three (3) official bulletin boards of the Town of Colma and mailed to the owner of the affected property at the address for which the Zoning Clearance was issued and, if different, at the address shown on the last tax roll of San Mateo County, at least ten (10) days before the hearing. In lieu of revocation, the Zoning Administrator may attach conditions to the Zoning Clearance.

(e) A decision by the Zoning Administrator to deny an application for a Zoning Clearance, to uphold a suspension of a Zoning Clearance, or to revoke a Zoning Clearance for shall be in writing, explaining the reasons therefore. The applicant may appeal the decision to the City Council in accordance with the procedures set forth in section 1.02.270 of this Code.

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12; ORD. 724, 6/12/13]

[Authorities: Gov't Code §§ 51035, 65850]

**5.03.237 Home Occupation Use or Cottage Food Operation – Conditional Use Permit Required.**

A Conditional Use Permit shall be required to use any part of a dwelling unit as an office for business purposes or a Cottage Food Operation if any of the findings contained in sections 5.03.234 and 5.03.235, respectively, cannot be made, or if any proposed use or activity is prohibited by these sections. An application for a Home Occupation Use Permit or Cottage Food Operation shall be made as described in Section 5.03.400 of the Colma Municipal Code. A Use Permit may be granted by the City Council only if the findings outlined in Section 5.03.410 can be made.

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12; ORD. 724, 6/12/13]

[Authorities: Gov't Code §§ 51035, 65850]

**5.03.240 Restrictions Applicable to "G" Zone.**

(a) No commercial or business use of any kind shall be conducted in the "G" Zone, except such uses which are normally considered incidental to or accessory to a cemetery or memorial park, agriculture, or a golf course.

(b) As to any golf course use, the following restrictions shall apply:

(1) Enclosed sanitary facilities shall be provided, with not less than three toilets for men and three toilets for women at each golf course;

(2) Paved parking area shall be provided for 200 automobiles or more, which area shall be located within 100 feet of the clubhouse. A paved two-lane access road is to connect the parking area and public street or road;

(3) No more than one sign advertising a golf course may be maintained or erected.

(c) No building, other than a building used for cemetery purposes, shall exceed a height of thirty-six (36) feet in the "G" District.

(d) Buffering Regulations. A crematorium shall be located such that the retort vents are no closer than 650 feet to the nearest residence and shall be sited, using topography and landscaping, so that the retort vents and delivery entrance cannot be seen from any public right-of-way. If the building can be seen from any public right-of-way, crematoriums shall be incorporated into the design of buildings such as chapels and mausoleums so that the cremation aspect is not apparent. Any crematorium existing prior to the effective date of this ordinance may be maintained and its equipment upgraded provided no retorts are added and the proposed work does not result in greater visibility, from any public right-of-way, of the existing retort vent(s) and delivery entrance.

[History: formerly § 5.330, ORD. 234, 3/14/79; ORD. 5/10/95; ORD. 325, 11/13/85; ORD. 520, 12/10/97; ORD. 638, 12/14/05; ORD. 728, 10/9/13]

### **5.03.250 Restrictions Applicable to "R" Zone.**

(a) All land within the "R" Zone, except as provided in subparagraph (5) below, shall be subject to the following area requirements:

(1) The front yard shall have a depth of not less than fifteen (15) feet from property line to front line of the building;

(2) The side yard shall be not less than 10 per cent of the width of the lot or 10 feet, whichever is the lesser;

(3) The rear yard shall be not less than 25 per cent of the total area of the lot, but such rear yard need not exceed 25 feet; save and except any "R" Zone located in that portion of Colma bounded by F Street, Hillside Boulevard, El Camino Real, and the northern boundary of the Town of Colma, in which area the rear yard shall have a depth of not less than 15 feet from property line to rear line of the building with respect to the first story of the building, and a depth of not less than 25 feet from property line to the rear line of any portion of the building above the first story. The one-story portion of a building which extends less than 25 feet from the rear property line shall have a pitched roof, and the space above the roof shall not be used for a roof deck, balcony or other similar purpose.

(4) Every lot shall have a minimum average width of 33-1/3 feet and a depth of not less than 100 feet.

(5) Notwithstanding the setback requirements of subparagraphs (1), (2), and (3) above, the distance between the vehicle entry of any covered parking structure to the property line shall be not less than 19 feet.

(6) Notwithstanding the area requirements of subparagraphs (1), (2), (3) and (4) above, the City Council may waive one or more of the area requirements upon finding all of the following:

(i) That there be two or more dwellings constructed prior to January 1, 1990 on a single parcel without common walls;

(ii) That it would be beneficial to the neighborhood to have each dwelling on a separate parcel;

(iii) That the parcel cannot be reasonably divided and still meet all of the foregoing area requirements; and

(iv) That the waiver will not tend to increase the density of use.

(b) The minimum number of off-street parking spaces as defined in section 5.01.080 shall be as hereinafter set forth:

(1) For all units constructed after March 1, 1988 off-street parking spaces shall be as set forth in the following table:

Residence Type	Spaces Required		Total
	Covered	Uncovered	
<b>Single Family Dwelling:</b>			
Up to 4 Bedrooms	2		2
Over 4 Bedrooms: add .5 covered for each additional bedroom			
<b>Multiple Units:</b>			
Studio	1	.5	1.5
1 Bedroom	1	.5	1.5
2-4 Bedrooms	1	1	2
Over 4 Bedrooms add.5 covered or uncovered For each additional bedroom			

(2) Additions and Remodeling of Residential Structures. Residential structures existing prior to March 1, 1988, or for which a use permit was issued prior to March 1, 1988, complying with previous law which required only 1 covered parking space for a single-family dwelling or for a multiple dwelling unit having 0 or 1 bedrooms, and 1.5 covered parking spaces for each multiple dwelling unit having 2 or more bedrooms, shall not be required to provide additional parking in compliance with the standards of Section (1) above because of repair, restoration, additions, or remodeling of such units except as follows:

- (i) If additional bedrooms are added to such existing dwelling units, additional parking must be added at the rate of one-half (1/2) space per bedroom for each bedroom exceeding the total, existing and added, of 4 bedrooms. The additional parking required may be uncovered.
- (ii) Additional units may be added to an existing structure provided off-street parking is added to meet the minimum standards for the new unit.

(3) Tandem parking is permitted provided tandem spaces are solely for the use of an individual unit. Tandem parking is not permitted where such spaces are required for two or more separate units.

(4) A bedroom for the purposes of these requirements is a room used as a bedroom or designed to be used as a bedroom. In the event of a dispute as to whether or not a room is a bedroom, determination shall be made by the City Planner based on the foregoing standard.

(5) If the total number of parking spaces required includes a fraction, the requirement shall be the next full number. For example, if the requirement is 4.5 spaces, 5 spaces shall be required.

(6) For all single-family residential units constructed, replaced or to which a second story is added after October 8, 2003, the covered parking spaces required by this

section 5.03.250 must be enclosed by walls and a lockable vehicle entry door, and must meet the following minimum dimensions, excluding areas designed or used for stairs, utility closets, and major appliances:

- (i) Eleven feet (11') wide and twenty feet (20') long, where one covered parking space is required;
  - (ii) Twenty feet (20') wide and twenty feet (20') long, where two covered parking spaces is required.
- (c) No building may exceed a height of thirty-six (36') feet in the "R" district.
- (d) All buildings must be constructed to the specifications of the Colma Building Code, or with respect to a Manufactured Home, in conformance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC section 5401 and following).
- (e) A single-family dwelling unit shall be subject to the following requirements:
- (1) The building shall be not less than 20 feet wide, as measured by the narrowest elevation;
  - (2) The siding shall not be highly reflective;
  - (3) The finished roofing material shall not be highly reflective except for the employment of solar energy devices;
  - (4) Exterior covering material shall extend to finish grade; except that, when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation;
  - (5) The roof pitch shall not be less than a two inch vertical rise for each twelve inches of horizontal run, unless, upon application, the Zoning Administrator finds that a flatter roof style would be compatible with the surrounding neighborhood;
  - (6) There shall be a roof overhang of at least 12 inches around the entire perimeter of the manufactured home as measured from the vertical side of the home, except that the Zoning Administrator may waive this requirement (A) at the point of connection where an accessory structure is attached to the manufactured home, or (B) upon finding that a lesser overhang would be compatible with the surrounding neighborhood;
  - (7) All mechanical and electrical equipment shall be screened so that the equipment is not visible from the public right-of-way. For roof and wall-mounted equipment, the screening shall be an integral part of the building design. They shall not use screening material which is highly reflective or incompatible with siding material.
- (f) A manufactured home shall be subject to each requirement set forth in the preceding subsection. A manufactured home shall also be subject to the following, additional requirements:

(1) A manufactured home shall not be more than 10 years old on the date of the application for the issuance of a permit to install the structure. The date of manufacture shall be utilized to assess the structure's age;

(2) A manufactured home shall be installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code, and;

[History: formerly § 5.331, ORD. 234, 3/14/79; ORD. 298, 6/13/84; ORD. 280, 1/12/83; ORD. 304, 10/10/84; ORD. 309, 2/13/85; ORD. 319, 5/8/85; ORD. 367, 4/13/88; ORD. 404, 11/08/89; ORD. 463, 11/10/93; ORD. 480, 5/10/95; ORD. 600, 6/25/03; ORD. 608, 12/10/03; ORD. 638, 12/14/05; ORD. 720, 5/8/13; ORD. 728, 10/9/13; ORD. 738, 1/14/15]

### **5.03.260 Restrictions Applicable to the "R-S" Zone.**

(a) All land within the "R-S" Zone shall be subject to the following development standards:

(1) Front yards must have a depth of not less than fifteen (15) feet from the front property line to the front face of the dwelling, nor less than nineteen (19) feet from the front property line to the front face of the garage. Corner lots shall be considered to have a front yard bordering each street.

(2) Side yards must not be less than ten percent (10%) of the lot width or ten feet (10'), whichever is less. No mechanical equipment, chimneys or above-ground stairs may project into required side yards. Stairs at grade and ground level decks are excepted.

(3) Rear yards must not be less than twenty-five feet (25') from the rear property line to any two story portion of the dwelling nor less than fifteen feet (15') to any one story portion of the dwelling. Any one story portion of a dwelling which extends less than twenty-five feet (25') from the rear property line must have a pitched roof, and the space above the roof must not be used for a roof deck, balcony or other similar purpose.

(4) Every lot must have a minimum average width of 33.33 feet and a minimum average depth of not less than 100 feet.

(5) Notwithstanding the requirements of subparagraphs (1), (2), (3) and (4) above, the City Council may waive one or more of the area requirements upon finding all of the following:

(i) That there are two or more dwellings constructed prior to January 1, 1990 on a single parcel without common walls;

(ii) That it would be beneficial to the neighborhood to have each dwelling on a single parcel;

(iii) That the parcel cannot be reasonably divided and still meet all of the foregoing requirements; and

(iv) That the waiver will not tend to increase the density of use.

(b) The minimum number of off-street parking spaces, as defined in Section 5.01.080, shall be as hereinafter set forth:

(1) For all units constructed or replaced after March 1, 1988, off-street parking must be provided as set forth in the table:

Residence Type	Spaces Required		Total
	Covered	Uncovered	
<b>Single Family Detached:</b> (Over 4 bedrooms add 0.5 spaces for each bedroom)	2		2
<b>Legal Second Units:</b>			
Studio			
One Bedroom			
<b>Multiple Units:</b>			
Studio	1	.5	1.5
1 Bedroom	1	.5	1.5

(2) For all residential structures existing prior to March 1, 1988, or for which a Use Permit was issued prior to March 1, 1988, complying with previous law which required only one (1) covered space for a single family dwelling or for a multiple dwelling having no more than one bedroom, and 1.5 covered parking spaces for each multiple dwelling having two (2) or more bedrooms, owners are not required to provide additional parking because of repair, restoration, remodeling or additions to such units except as follows:

(i) If additional bedrooms are added to an existing single family dwelling the number of off-street parking spaces must be increased by 0.5 covered or uncovered spaces for each bedroom exceeding the total, existing and added, of four (4) bedrooms.

(3) Tandem parking is not permitted for new single family detached dwellings; tandem parking is only permitted for dwellings where tandem parking existed prior to the effective date of this ordinance.

(4) A bedroom for purposes of these requirements is a room used as a bedroom or designed to be used as a bedroom. In the event of a dispute as to whether or not a room is a bedroom, determination shall be made by the City Planner based on the foregoing standard.

(5) If the total number of parking spaces required includes a fraction, the requirements shall be the next full number.

(6) For all single-family residential units constructed, replaced or to which a second story is added after October 8, 2003, the covered parking spaces required by this section 5.03.250 must be enclosed by walls and a lockable vehicle entry door, and must meet the following minimum dimensions, excluding areas designed or used for stairs, utility closets, and major appliances:

- (i) Eleven feet (11') wide and twenty feet (20') long, where one covered parking space is required;
  - (ii) Twenty feet (20') wide and twenty feet (20') long, where two covered parking spaces is required.
- (c) No buildings may exceed a height of twenty-seven feet (27') measured from the finished grade at the perimeter of the building to the highest point of the roof line.
- (d) All building must be built to the specifications of the Colma Building Code or, with respect to a Manufactured Home, in conformance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC section 5401 and following).
- (e) All residential buildings must comply with the following design standards:
  - (1) The building shall be not less than 20 feet wide, as measured by the narrowest elevation;
  - (2) The siding shall not be highly reflective;
  - (3) The finished roofing material shall not be highly reflective except for the employment of solar energy devices;
  - (4) Exterior covering material shall extend to finish grade; except that, when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation;
  - (5) Buildings must be designed to feature a one-story front facade at the front yard setback;
  - (6) Any existing second unit must be clearly subordinate to the principal unit and must not have its front door facing the street;
  - (7) Exterior building walls must be well articulated with windows, doors, balconies, bays, exposed beams, overhangs and similar features; trim and moldings must be utilized to accentuate rooflines and wall openings;
  - (8) All roofs must have a pitch not less than two inch vertical rise for each twelve inches of horizontal run. This shall not apply to existing buildings where the roof is not being remodeled;
  - (9) All mechanical and electrical equipment must be located so as not to be visible from the public right-of-way;
  - (10) At least sixty percent (60%) of the front setback area must be devoted to landscaping; front yard areas, other than driveway aprons, must not be used for storage of motor vehicles;
  - (11) There shall be a roof overhang of at least 12 inches around the entire perimeter of the manufactured home as measured from the vertical side of the home, except that



the Zoning Administrator may waive this requirement (A) at the point of connection where an accessory structure is attached to the manufactured home, or (B) upon finding that a lesser overhang would be compatible with the surrounding neighborhood;

(12) Trash receptacles must be stored so they are not visible from the public right-of-way; and

(13) Front yard areas must never be used for storage.

(f) A manufactured home shall be subject to each requirement set forth in the preceding subsection except for the requirements numbered A. A manufactured home shall also be subject to the following, additional requirements:

(1) A manufactured home shall not be more than 10 years old on the date of the application for the issuance of a permit to install the structure. The date of manufacture shall be utilized to assess the structure's age; and

(2) A manufactured home shall be installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code.

[History: formerly § 5.331.1, ORD. 304, 10/10/84; ORD. 536, 7/8/98; ORD. 608, 12/10/03; ORD. 638, 12/14/05; ORD. 720, 5/8/13; ORD. 738, 1/14/15]

### **5.03.270 Second Dwelling Units.**

Second Dwelling units shall be permitted in any residential zone except the R-S zone, subject to the following.

(a) *Standards.* A second dwelling unit permit will be issued only if the unit complies with the following standards:

(1) Size: A Second Dwelling Unit may not be smaller than 150 square feet nor larger than 300 square feet and may not contain more than one (1) bedroom.

(2) Setbacks from property lines shall be provided in conformance with Section 5.03.250(a).

(3) A minimum of one off-street parking space is required in addition to the parking requirement in section 5.03.250 (b), and may be located in the front setback area and in tandem with other required off-street spaces.

(4) Maximum building height shall be as specified in Section 5.03.250 (c).

(5) Design shall be consistent with the standards set forth in Section 5.03.250 (e), except that the minimum width shall be twelve feet.

(6) A front door entrance shall be provided separate and distinct from the primary dwelling unit.

(7) A separate utility meter shall be provided.

- (8) The primary residence or the second dwelling unit must be occupied by the owner of record of the property;
- (9) A permanent foundation shall be required for all Second Dwelling Units.
- (10) There shall be only one second dwelling unit on any individual property.

(b) *Permitting Procedures for Second Dwelling Units.* Any application for a second dwelling unit permit shall be submitted to the Planning Department for verification that the proposal meets the standards set forth in Section 5.03.250 (a). Upon finding that the standards are met, the proposal shall be approved ministerially without discretionary review or public hearing and the applicant may proceed to acquire a Building Permit.

(c) *Deed Restrictions Applicable to Second Dwelling Units.* Neither a Building Permit nor a Certificate of Occupancy may be issued for a second dwelling unit unless and until the property owner has filed with the County Recorder an Agreement of Restriction, which has been approved by the City Attorney as to form and content, containing a reference to the deed under which the property was acquired by the owner and stating the following:

- (1) The second dwelling unit shall not be sold separately from any part of the property on which it is located;
- (2) The second dwelling unit is restricted to the standards specified in Colma Municipal Code Section 5.03.270;
- (3) The second dwelling unit shall be considered legal only so long as either the primary residence or the second dwelling unit is occupied by the owner of record of the property;
- (4) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

[*History:* formerly § 5.331.2; ORD. 600, 6/25/03; ORD. 638, 12/14/05]

### **5.03.280 Regulation of Multi-Family Uses in Single-Family Residential Zones.**

(a) *Purpose.* The purpose of this Chapter is to preserve the residential character of neighborhoods in single-family residential zones by prohibiting the operation of boarding houses and rooming houses. This Chapter is directed at the commercial use of property that is inconsistent with the residential character of the neighborhoods in single-family residential zones and not the identity of the users.

(b) *Prohibition of Boarding Houses or Rooming Houses in Single-Family Residential Zones.* The operation of a boarding house or rooming house is prohibited in all single-family residential zones.

(c) *Permitted Use.* The renting of not more than two (2) rooms in a dwelling unit to individuals under separate rental agreements or leases is permitted by right as an accessory use in all residential districts. provided that:

- (1) The rental of rooms is for periods of at least fourteen (14) days; and
- (2) The rooms which are rented are fully integrated within the dwelling unit such that the rented rooms:
  - (i) Have interior access to the rest of the dwelling unit;
  - (ii) Do not have separate cooking facilities; and
  - (iii) Do not have separate street addresses assigned to such rooms(s).
- (3) All requirements for off-street parking are met.

(d) Notwithstanding anything to the contrary herein, this section does not permit a commercial use in a residential district unless such a use is specified in the regulations for the district.

(e) *Violations.* Violations of this ordinance are declared to be a public nuisance. Each violation is subject to the penalties set forth in Subchapter Five of Chapter One of the Colma Municipal Code.

[*History:* formerly § 5.331.3; ORD. 628, 5/11/05; ORD. 638, 12/14/05]

### **5.03.290 Restrictions Applicable to "C" Zone.**

(a) All residential use within the "C" Zone shall be subject to the same requirements as is applicable to residential use in the "R" Zone, as set forth in section 5.03.250 above.

(b) Commercial establishment uses and light industrial uses shall be subject to the following requirements:

- (1) Area: Each lot shall have a minimum average width of 33-1/3 feet and a depth of not less than 100 feet;
- (2) Setbacks: The front yard shall have a depth of not less than five (5) feet from property line to front line of the building; the side yards shall not be less than five (5) feet wide; the rear yard shall not be less than five (5) feet deep.
- (3) Not more than 50 per cent of any building site shall be covered by buildings.
- (4) Parking: For each commercial or light industrial use, the user must provide and maintain facilities for parking, loading and unloading. The minimum number of off-street parking spaces (as defined in section 5.01.080) for each use shall be as set forth in the following list. If a building or site is used by more than one user, each unit of the building or site being used by a separate user must comply with the minimum parking requirements herein, even if the use is the same in the different units. The minimum parking requirements are:

- (i) Retail Stores: one (1) parking space for each one hundred (100) square feet of sales floor area, but in no case less than one (1) parking space for each two hundred (200) square feet of gross floor area;
- (ii) Banks and Office Buildings: one (1) parking space for each three hundred (300) square feet of floor area;
- (iii) Restaurants and Bars: one (1) parking space for each four (4) seats or stools;
- (iv) Theaters: one (1) parking space for each (5) seats;
- (v) Cardroom: a minimum of one (1) specified truck loading and unloading space for overall service to the cardroom facility, one (1) truck loading and unloading space for vehicles involved in secure money shipment, one (1) standard parking space for each employee in the cardroom shift with the largest number of employees, eight (8) standard parking spaces for each gaming table, and one (1) standard parking space for each four (4) seats or stools in restaurant and bar facilities. All parking shall be designed for self-parking with the exception that up to fifty percent (50%) of the gaming table parking may be valet parking. With respect to valet parking, tandem parking and compact parking space dimensions may be utilized.
- (vi) Vehicular Repair and Service Uses:
  - (A) For each building constructed after March 14, 1997, off-street parking spaces shall be provided to meet the following standards:  
  
One (1) off-street parking space for each two hundred (200) square feet of gross building area but, in all cases, a minimum of five (5) regular off-street parking spaces. Off-street parking for service and repair facilities must be designed so that vehicles are not required to back directly onto a public street but are able to turn around and enter the public right-of-way while moving forward.
  - (B) For buildings existing on March 14, 1997, the floor area thereof may not be expanded and a change in use may not be permitted unless off-street parking is provided for the expanded or changed areas in accordance with the provisions of section 5.03.290.
  - (C) Existing buildings not occupied by a permitted use on March 14, 1997, shall not be utilized for vehicular repair and service uses unless off-street parking is provided in accordance with Section (A) above.
- (vii) Mixed Office and Warehouse Uses:

- (A) For all buildings constructed after March 14, 1997, off-street parking spaces shall be provided to meet the following standards:
  - (1) One (1) off-street parking space for each three hundred (300) square feet of office space; plus
  - (2) one (1) off-street parking space for each four hundred (400) square feet of warehouse space in each unit having up to 4,800 square feet of warehouse space; plus
  - (3) one (1) off-street parking space for each one thousand (1,000) square feet of warehouse space in each unit having in excess of 4,800 square feet but less than 10,000 square feet of warehouse space; plus
  - (4) one (1) off-street parking space for each two thousand (2,000) square feet of warehouse space in each unit having in excess of 10,000 square feet of warehouse space.
- (B) For buildings existing on March 14, 1997, the floor area thereof may not be expanded and a change in use may not be permitted unless off-street parking for the expanded or changed areas is provided in accordance with the provisions of section 5.03.290.

(viii) All other uses: minimum of one (1) parking space for each five (5) regular employees but, in any case, not less than one (1) space for each two thousand (2,000) square feet of floor area, or fraction thereof.

(5) Height: The maximum height of any building shall be forty (40) feet.

(6) Design: The design of any building shall be subject to approval by the City Council which shall consider the height, design and use of such building in relation to the height, design and use of buildings in the surrounding area.

(7) Landscaping: Within the required setback area from streets there shall be maintained on each site only paved parking spaces, paved walks, paved driveways, lawns and landscaping; and the surface of so much of the remainder of each site as is not covered by buildings, by lawns, or by landscaping shall be treated so as to be dust free. The City Council may require, as a condition of the Use Permit, that all or a portion of the setback area be maintained in lawns or landscaping.

(c) *Commercial Centers: A commercial center shall be subject to the following requirements:*

(1) Area: The building site of a commercial center shall be one-half acre or more.

(2) Setbacks: No building shall be located less than twenty (20) feet from any property line to any portion of the building.

(3) Parking: In any commercial center, the minimum amount of off-street parking shall be such that the ratio of parking spaces to gross leasable area in the shopping center shall be five (5) parking spaces as defined in section 5.01.080 for each one thousand (1,000) square feet of gross leasable area, as herein defined:

- (i) For the purpose of this section, gross leasable area (GLA) shall mean the total floor area designed for tenant occupancy, including basements, mezzanines and upper floors. Area is measured from the center line of interior partitions and the outside face of exterior walls. GLA excludes common areas which are not set aside for occupancy and exclusive use of a commercial establishment within the shopping center, such as public toilets, truck and service facilities and malls;
- (ii) Exception for gasoline service stations. Gasoline service stations and the area delineated on the shopping center site plan for their use shall have no off-street parking requirements.

(4) Height: The maximum height of any building shall be forty (40) feet.

(5) Design: The design of any building in a commercial center shall be subject to approval of the City Council, which shall consider the height, design and use of such building in relation to the height, design and use of buildings in the surrounding area.

(6) Construction: No building shall have exterior walls constructed other than of tilt-up concrete or equal material, nor shall more than fifty per cent of the area of any building site be covered by buildings.

(7) Landscaping: Within the required setback area from streets there shall be maintained on each site only paved parking spaces, paved walks, paved driveways, lawns and landscaping; and the surface of so much of the remainder of each as is not covered by buildings, by lawns, or by landscaping shall be treated so as to be dust free. The City Council may require, as a condition of the Use Permit, that all or a portion of the setback area be maintained in lawns or landscaping.

(d) Emergency Shelters: An emergency shelter shall be subject to the following requirements:

(1) No individual or household may be denied emergency shelter because of an inability to pay.

(2) Development Standards

- (i) Proximity to Other Shelters: No emergency shelter shall be located closer than three hundred (300) feet to another emergency shelter.
- (ii) Vehicle Parking: An emergency shelter shall provide off-street parking spaces totaling the sum of: 0.35 parking spaces for every bed, rounded up to the nearest whole parking space; and one parking space for each

employee who is working at the same time as another employee; and all parking spaces required under the Americans for Disabilities Act.

- (iii) Bicycle Parking: An emergency shelter shall provide a minimum of one bicycle space for every five beds.
- (iv) Shelter Capacity: No emergency shelter shall contain more than five beds. The maximum number of beds in all emergency shelters in the Town shall not be less than the number of unsheltered homeless persons in Colma as determined in San Mateo County's Homeless Survey.
- (v) Client Waiting Areas: Client waiting areas shall be sized and located appropriately to keep clients from waiting on the public right-of-way.
- (vi) Length of Stay: The length of stay per individual in an emergency shelter shall not exceed six (6) months in a consecutive 12-month period.
- (vii) Screening of Outdoor Uses: An emergency shelter shall not allow or include any of the following to occur in front of an emergency shelter or in any other location incidental to the shelter that is visible from adjoining properties or the public right-of-way, unless entirely screened from public view.

- designated outdoor smoking area;

- outdoor waiting and client intake area;

- outdoor public telephones; and

- outdoor refuse area.

- (viii) Exterior Lighting: Lighting in or on an emergency shelter shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity that is consistent with existing lighting in the surrounding area in which the shelter is located.
- (ix) Laundry Facilities: An emergency shelter shall provide laundry facilities to serve the persons residing in the shelter.
- (x) Personal Property Storage: An emergency shelter shall provide secure areas for temporary storage of personal property of the persons residing in the shelter.

(3) Management Standards

- (i) Emergency Shelter Management Plan: The operator of an emergency shelter shall prepare and submit to the City Planner for its approval, a management plan that includes the following: established staff training program to meet the needs of emergency shelter residents; adequate security measures to protect emergency shelter residents and the

neighboring land uses; on-site management and security personnel who must be present at all times when the emergency shelter is in operation; and a list of services provided to assist emergency shelter residents with obtaining permanent housing and income.

- (ii) The operator shall, at all times, comply with and perform all terms and conditions of the management plan approved by the City Planner.

[History: formerly § 5.332; ORD. 234, 3/14/79; ORD. 319, 5/08/85; ORD. 467, 6/8/94; ORD. 480, 5/10/95; ORD. 505, 2/19/97; ORD. 638, 12/14/05; ORD. 687, 1/13/10; ORD. 720, 5/8/13; ORD. 728, 10/9/13]

### **5.03.300 Restrictions and Procedures Applicable to the "DR" Design Review Zone.**

(a) *Applicability.* The requirements of this section shall apply to all site, landscape and building plans, whether submitted in connection with the construction of a new building or an alteration or modification to the structure or façade of an existing building, within the area described in Section 5.03.040(d) with the following exceptions:

- (1) An addition or modification to an existing building where the addition or modification, if it were to conform to the DR standards, would clash with the building's established architectural theme.

- (2) Construction of secondary or accessory structures on parcels with existing buildings where the new building plans, were they to conform to the DR standards, would clash with existing improvements having recognized historical or architectural merit.

- (3) Construction of new buildings on cemetery grounds with a G base zone, where the new site and building plans, were they to conform to the DR standards, would clash with existing improvements having recognized historical or architectural merit.

- (4) Wireless Communications Facilities in the "DR" Zone shall be subject to the requirements of subchapter 5.17 only.

(b) *DR (S) Design Standards.* All plans for development in the portion of the DR zone which are designated with an "(S)" shall incorporate building, site and landscape design elements representing the Spanish/Mediterranean style as defined in the following subsections.

- (1) *Building Design Elements.* Principal structures and secondary structures such as, storage buildings and trash enclosures must be architecturally consistent. The following design elements must be present in all buildings:

- (i) Buildings shall incorporate simple, stepped massing, highlighted with towers, cupolas and varied chimney forms. Flat walls shall be minimized by interruptions using balconies, patios, shed roof elements, clerestory windows, gable end or trellis arcades and colonnades of stylized columns or arches.



- (ii) Roofs shall be low pitched gable and shed roof types with terra-cotta or similar colored real, individual Spanish barrel tile. No manufactured tile or sheets of tile may be used. All flat roof areas shall be surrounded by a parapet wall and must not be located where they can be viewed from adjacent buildings or property. Parapet walls shall be of such height that will completely screen all rooftop equipment.
- (iii) Wall surfaces shall be composed primarily of stucco and must be articulated by use of columns, piers and pilasters. Window and door openings shall be varied in size and articulated by use of deep reveals, exposed lintels and sills, iron grillwork and faux balconies. Arched openings are encouraged.
- (iv) Door and window openings shall be designed to convey the thickness of masonry construction by recessing the doors and windows and using ornamental surrounds. Ornamentation may consist of stucco moldings, bands of tile or other framing. Glass areas must be broken up by mullions. Operable casement or double hung windows are encouraged. Windows can be covered externally with appropriately designed grilles integral to the surface of the building.

(2) Site and Landscape Design Elements. The following elements must be present in the site and landscape designs:

- (i) Site plan and landscape design must appropriately integrate and conceal utility vaults, back flow prevention devices, trash dumpsters and other accessory elements that may not be compatible with the Spanish-Mediterranean theme.
- (ii) A formal balanced planting layout shall be achieved by using elements such as landscape entry features, tree lined walks and drives, and boundary tree rows. Formal placement of trees in courts, pavilions and parking lots can significantly enhance the character of these public and private areas. Use of accent features such as brightly colored flowers and palm trees is encouraged. Drought tolerant and California native plant materials are encouraged.
- (iii) Landscape design shall incorporate features such as arbors, trellises, fountains, walks, pavilions, curbs, light standards, benches, sculpture, enhanced pavement (materials, textures and patterns), garden walls (free standing and retaining), wood fences and gates, ironwork gates and railings, planting pots and urns in order to integrate the Spanish/Mediterranean design theme throughout the overall project design.

(c) *DR Design Standards.* All plans for development in the DR zone without an "(S)" designation shall incorporate building, site and landscape design elements that are appropriate for the setting based on surrounding properties as defined in the following subsections.

(1) Building Design Elements. Principal structures and secondary structures such as, storage buildings and trash enclosures must be architecturally consistent with each other. The following design elements must be present in all buildings:

- (i) Buildings shall incorporate simple, stepped massing. Flat walls shall be composed of a durable material and shall be minimized by interruptions including wall off-sets, varied use of materials, trim banding, score lines, trim molding, contrasting colors, trellises etc. The use of tower or articulated roof elements is encouraged.
- (ii) Roofs shall be low pitched gable and shed roof types. All flat roof areas shall be surrounded by a parapet wall and must not be located where they can be viewed from adjacent buildings or property. Parapet walls shall be of such height that will completely screen all rooftop equipment.

(2) Site and Landscape Design Elements. The following elements must be present in the site and landscape designs:

- (i) Site plan and landscape design must appropriately integrate and conceal utility vaults, back flow prevention devices, trash dumpsters and other accessory elements.
- (ii) A formal balanced planting layout shall be achieved by using elements such as landscape entry features, tree lined walks and drives, and boundary tree rows. Formal placement of trees in courts, pavilions and parking lots can significantly enhance the character of these public and private areas. Use of accent features such as brightly colored flowers and palm trees is encouraged. Drought tolerant and California native plant materials are encouraged.
- (iii) Landscape design shall incorporate features such as arbors, trellises, fountains, walks, pavilions, curbs, light standards, benches, sculpture, enhanced pavement (materials, textures and patterns), garden walls (free standing and retaining), wood fences and gates, ironwork gates and railings, planting pots and urns as appropriate to the project.

(3) Tent Structures are allowed, subject to the following design standards. All Tent Structures are considered structures and therefore may only be installed pursuant to a valid Building Permit.

- (i) Tents shall be located only on paved areas and not on approved landscaping. Tents shall not block any access aisles or fire lanes. A total of three tents per property are permitted at any given time, not to exceed 400 square feet each (1,200 square feet total). Exceptions may be granted by the City Planner for infrequent special events.
- (ii) Tents shall be made of high quality fire retardant materials, and must be in colors which are consistent with color that matches the principal

building on the site or approved signage on the property. Tents shall be securely fastened according to accepted engineering practices.

(d) *Design Review Procedure and Approval.* No grading or building permit shall be issued until design plans have been reviewed and approved. Plans shall be submitted to the City Planner for review and approval according to the following procedures:

(1) *City Council Approval.* Whenever the project requires approval of a Use Permit, Subdivision Map, Planned Unit Development, or other action by the City Council, then the City Council shall also, at that time, make the determination to approve the design in accordance with this ordinance. Determinations made by the City Council may be reconsidered in accordance with the procedure set forth at Section 5.03.420.

(2) *Zoning Administrator Approval.* The Zoning Administrator shall make the determination to approve the design of all projects other than those described in the preceding paragraph, and any determination by the Zoning Administrator may be appealed by any interested party to the City Council in accordance with the procedures set forth in section 1.02.140 of the Colma Municipal Code.

(3) *Modification of Standards.* The City Council or Zoning Administrator may, in its sole discretion, modify the application of these *DR Design Standards* to a modification or addition of an existing building after considering: (a) the nature of the specific standard or standards to be applied; (b) the economic impact of strict compliance with these standards on the property; and (c) the extent to which strict compliance interferes with the property owner's investment-backed expectations.

(4) *Findings.* The City Council or Zoning Administrator, as appropriate, may approve a design only if it finds that:

- (i) The architectural, site and landscape design of the proposed project incorporates design elements adopted for the DR zone.
- (ii) The architectural, site and landscape design substantially reflects the goal of the DR zone to achieve a consistent site, landscape and building design theme for the Town of Colma.

(5) *Fees.* Design review fees shall be set forth in the Town of Colma Master Fee Schedule.

[*History:* formerly § 5.333, ORD, 467, 6/8/94; ORD. 500, 10/9/96; ORD. 521, 12/10/97; ORD. 524, 1/14/98; Ord. 551, 4/14/1999; ORD. 638, 12/14/05; ORD. 707, 4/11/11; ORD. 748, 9/9/15]

### **5.03.310 Restrictions Applicable to "P" Zone.**

There shall be no restrictions on buildings or use within the "P" Zone, except that it is the policy of the City that any use in the "P" Zone shall be consistent with the other uses in the City.

[*History:* formerly § 5.334; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

### **5.03.320 Restriction Applicable to "F" Zone.**

(a) No person may erect, construct, enlarge or improve any building or structure in the "F" Zone, or permit the same to be done, unless the building or structure complies with each of the following requirements:

- (1) The first-floor elevation (to include basement) of any new residential structures shall be elevated to or above the 100-year flood elevation;
- (2) The first-floor elevation (to include basement) of non-residential structures shall be elevated to or above the 100-year flood elevation;
- (3) Only construction materials and utility equipment that are resistant to flood damage may be used at or below the 100 year flood elevation;
- (4) Only construction methods and practices that will minimize flood damage may be used;
- (5) Each building or structure must be designed or anchored to prevent the flotation, collapse or lateral movement of the structure or portions of the structure due to flooding;
- (6) In regard to mobile homes:
  - (i) Over-the-top ties must be provided at each of the four corners of the mobile home with two (2) additional ties per side at the intermediate locations, and mobile homes less than fifty (50) feet long requiring one (1) additional tie per side;
  - (ii) Frame ties must be provided at each corner of the home with five (5) additional ties per side at intermediate points, and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side;
  - (iii) All components of the anchoring system must be capable of carrying a force of 4,800 pounds;
  - (iv) Any additions to mobile homes must be similarly anchored.

(b) The term "100-year flood elevation" means the elevation which is determined by the City Engineer to have a one per cent chance of flooding in any given year.

*[History: formerly § 5.335; ORD. 290, 08/10/83; ORD. 638, 12/14/05]*

### **5.03.330 Restrictions Applicable to "E" Zone.**

(a) All uses in the "E" Zone shall be subject to the following requirements:

- (1) Area: Each lot shall have a minimum average width of 33-1/3 feet and a depth not less than 100 feet.

- (2) Setbacks: The front yard shall have a depth of not less than five (5) feet from property line to the front line of any building except that any yard facing El Camino Real shall be thirty (30) feet; the side yards shall not be less than five (5) feet wide; the rear yard shall not be less than five (5) feet deep.
- (3) Site Coverage: Not more than fifty (50%) per cent of any building site shall be covered by buildings.
- (4) Parking: There shall be maintained on each building site facilities for parking, loading, and unloading; provided, however, that off-street parking shall in no event be less than the following standards:
- (i) Retail Stores: one (1) parking space for each one hundred (100) square feet of sales floor area, but in no case less than one (1) space for each two hundred (200) square feet of gross floor area;
  - (ii) Professional Business and Medical Service Offices: one (1) parking space for each three hundred (300) square feet of gross floor area;
  - (iii) Restaurants: One (1) parking space for each four (4) seats for seating other than private banquet facilities; and with respect to private banquet facilities such additional parking as may be appropriate considering the size of the facility, the reasonably anticipated utilization of the banquet facility, and the availability of adjacent parking; provided, however, that the amount of parking required for banquet facilities shall be no greater than one (1) parking space for each four (4) seats.
  - (iv) All other uses: minimum of one (1) space for each five (5) regular employees but, in any case, not less than one (1) space for each two thousand (2,000) square feet of gross floor area, or fraction thereof.
- (5) Height: The maximum height of any building shall be thirty-six (36) feet.
- (6) Design: The design of any building shall be subject to approval by the City Council who shall consider the height, design and use of such building in relation to the height, design and use of buildings in the surrounding area.
- (7) Landscaping: Within the required setback area from El Camino Real there shall be maintained only paved walks, paved walks, paved driveways, lawns and landscaping. The landscaping shall be consistent with landscaping in the surrounding area, and shall screen parking areas from passerby on the adjacent street. The City Council may require, as a condition of any Use Permit, that all or a portion of the setback area be maintained as lawns or landscaping.
- (8) Parking shall be placed behind buildings or well screened by landscaping.
- (9) Any roll-up doors and loading areas shall be located so as not to face public roads.

[History: formerly § 5.335.1; ORD. 321, 7/10/85; ORD. 372, 7/13/88; ORD. 638, 12/14/05]

#### **5.03.340 Restrictions Applicable to "T" Zone.**

- (a) No person may erect, construct, enlarge or improve any public or private transit building or transit structure in the "T" Zone, or permit the same to be done, unless such building or structure is underground and covered with soil so as to make its location indistinguishable from adjacent terrain.
- (b) Notwithstanding the foregoing, nothing herein contained shall limit the establishment and maintenance of landscaping, fences, roads, surface parking facilities, or similar improvements in said zone.
- (c) Notwithstanding the foregoing, the portion of a parcel containing a "T" zone shall be included in determining land to building ratios, set-backs, minimum lot size, and similar zoning requirements.
- (d) Buildings and structures may be developed in the "T" Zone, subject to a Use Permit, provided the building or structure is supported on a foundation system that will not prevent the development of covered, underground public or private transit facilities at that location.

[History: formerly § 5.335.2; ORD. 374, 09/14/88; ORD. 460, 11/10/93; ORD. 638, 12/14/05]

#### **5.03.345 No Net Reduction in Housing Units**

- (a) It is the City Council's policy not to reduce, require or permit the reduction of the residential density for any parcel identified in the Housing Element of the Town's General Plan as suitable for housing unless the City Council makes written findings based on substantial evidence that (1) the reduction is consistent with the Town's General Plan, including the Housing Element, and (2) the remaining sites identified in the Housing Element of the Town's General Plan are suitable for housing are adequate to accommodate the jurisdiction's allocation share of the regional housing needs (RHNA).
- (b) If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to accommodate the Town's allocation of the regional housing need pursuant to state law, the City Council may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.
- (c) A project applicant who requests in his or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the Town's allocation of the regional housing need pursuant to state law, must identify sufficient additional, adequate, and available sites with an equal or greater residential density in Colma so that there is no net loss of residential unit capacity."

[History: Ord 720, 5/8/13]

### **5.03.350 Restrictions Applicable to All Zones.**

(a) There shall not be permitted any use which may be determined by the City Council to be obnoxious or offensive because of the presence or emission of odor, fumes, dust, gas, smoke, noise, bright lights, vibrations, pollution, detrimental sewer wastes, or have a detrimental effect on permissible adjacent uses, or will be hazardous by reason of danger of fire or explosion.

(b) In each zone there shall be provided at the time of the erection of any main building or at the time any main building is enlarged or increased in capacity, sufficient off-street parking accommodations with adequate provisions for ingress and egress by standard size automobiles. Parking access-ways, parking spaces and fire lanes shall all meet the minimum standards provided in Section 5.01.080 (Definitions) above.

(c) The following uses are prohibited in all districts: amusement parks or centers, circuses, carnivals, outdoor theaters, race tracks, commercial recreation centers, stockyards, the slaughtering of animals.

(d) Definition of "self-storage mini-warehouse": a structure containing more than five (5) individually locked rooms or compartments, each of which rooms or compartments are available for rent to the general public on a daily, weekly, monthly or other periodic basis for the purpose of storing chattel or personal property, where the property stored in the rooms or compartments is loaded and removed by the renter of the compartment, rather than by the owner of the self-storage mini-warehouse or his agent. "Self-storage mini-warehouse" does not include storage space made available on a rental basis to renters of apartments or owners of condominiums on the premises which contains the condominium or apartment building.

(e) No person shall install, construct or maintain a fence or hedge on any property in the Town of Colma except in compliance with the following:

(1) General fence and hedge limitations:

- (i) If cyclone fencing is used, it must be black vinyl clad with black painted posts and supports.
- (ii) Fences shall be maintained in good repair and condition.
- (iii) Hedge height limits in this section do not apply to taller landscaping planted immediately adjacent to building walls. Free standing trees are encouraged in all yard areas.
- (iv) Fences with razor wire are not permitted in the Town of Colma.
- (v) For corner lots, a vision triangle of 35' shall be maintained to insure safe visibility for motorists. The vision triangle shall be created by measuring along the curb line 35' in each direction from the street corner, with the endpoints connected across the lot. Within the vision triangle, no fencing or vegetation shall exceed three (3) feet in height and all tree canopies must be kept seven (7) or more feet above grade.

- (vi) Any unimproved right-of-way (the area between the back of sidewalk and the front property line of any property) may contain landscape planting, irrigation and fencing.
  - (vii) The height of a fence shall be measured as the higher of the two sides of the fence.
- (2) Fence and hedge limitations in all Residential Zones:
- (i) No fence or hedge in excess of four (4) feet in height is allowed between the back of the sidewalk and front wall of any residence. An exception is permitted for a single, freestanding trellis structure not exceeding eight (8) feet in height, five (5) feet in width, and five (5) feet in depth. An exception may be granted by the City Planner through the Design Review Process if required for security, pedestrian safety, to screen out undesirable views, or for other aesthetic reasons.
  - (ii) No fence or hedge in excess of six (6) feet in height is allowed from the front face of the residence to the rear property line. An exception may be granted by the City Planner through the Design Review Process if required for security, pedestrian safety, to screen out undesirable views, or for other aesthetic reasons.
  - (iii) No barbed wire shall be permitted in a residential zone.
- (3) Fence and hedge limitations for Non-Residential Zones:
- (i) No fence or hedge in excess of four (4) feet in height is allowed between the back of the sidewalk and a parallel line set back thirty (30) feet from the front property line. An exception may be granted by the City Planner through the Design Review Process if required for security, pedestrian safety, to screen out undesirable views, or for other aesthetic reasons.
  - (ii) No fence or hedge in excess of eight (8) feet in height is allowed from the thirty (30) foot setback line to the rear of the property. An exception may be granted by the City Planner through the Design Review Process if required for security, pedestrian safety, to screen out undesirable views, or for other aesthetic reasons.
  - (iii) No barbed wire shall be permitted in front of the thirty (30) foot setback line. An exception may be granted by the City Planner through the Design Review Process if required for security.
- (4) Prior constructing or installing a fence in excess of six feet in height, retaining wall exceeding two (2) feet in height, masonry wall, or any improvement located in the public right-of-way, owners and occupants should consult with the Building Official or City Engineer to determine if a building permit and/or encroachment permit is needed.



[History: formerly § 5.336, ORD. 234, 03/14/79; ORD. 313, 02/13/85; ORD. 550, 4/14/1999; ORD. 638, 12/14/05, ORD 662, 9/12/07; ORD 754, 1/13/16; ORD 766, 11/9/16; ORD 767, 12/14/16]

### **5.03.355 Regulation of the Use of Personal, Medical, and Commercial Marijuana**

(a) *Purpose.* The purpose of this Section is to regulate personal, medical, and commercial marijuana uses. Nothing in this Section shall preempt or make inapplicable any provision of state or federal law.

(b) *Personal Use.*

(1) For purposes of this subsection, personal recreational use, possession, purchase, transport, or dissemination of marijuana shall be considered unlawful in all areas of the Town to the extent it is unlawful under California law.

(2) *Outdoor Cultivation.* A person may not plant, cultivate, harvest, dry, or process marijuana plants outdoors in any zoning district of the Town. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

(3) *Indoor Cultivation.*

(i) A person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, or inside any other enclosed structure within any zoning district of the Town. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

(ii) To the extent a complete prohibition on indoor cultivation is not permitted under California law, a person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, unless the person is issued an indoor cultivation permit by the Planning Department. A person may not plant, cultivate, harvest, dry or process marijuana plants inside any enclosed structure within any zoning district of the Town which is not either a private residence or an accessory structure to a private residence located upon the grounds of a private residence.

(iii) The Planning Department will issue application and processing guidelines for the indoor cultivation permit. No indoor cultivation permit shall be issued prior to the release of these guidelines, and no permit shall be granted which has not complied fully with the application and processing requirements.

(c) *Medical Use.*

(1) Cultivation of medical marijuana pursuant to Section 11362.77 of the California Health & Safety Code is subject to the cultivation requirements laid out in subsection (b) of this Section.

(2) The establishment or operation of any medical marijuana collective, cooperative, dispensary, delivery service, operator, establishment, or provider shall be considered a prohibited use in all zoning districts of the Town. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment of any collective, cooperative, dispensary, delivery service, operator, establishment, or provider in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district.

(3) Exception. The operation of a medical marijuana delivery service established and located outside the jurisdiction is permitted in the Town, provided a business license and all other entitlements or permits have been approved pursuant to this Code.

(d) Commercial Use.

(1) The establishment or operation of any business of commercial marijuana activity is prohibited. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:

- (i) The transportation, delivery, storage, distribution, or sale of marijuana, marijuana products, or marijuana accessories;
- (ii) The cultivation of marijuana;
- (iii) The manufacturing or testing of marijuana, marijuana products, or marijuana accessories; or
- (iv) Any other business licensed by the state or other government entity under Division 10 of the California Business & Professions Code, as it may be amended from time to time.

(e) Penalty for Violations. No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided in Subchapter 1.05 of this Municipal Code and/or under state law.

[History: ORD 766, 11/9/16; ORD 767, 12/14/16]

### **5.03.360 Restrictions and Landscaping Along El Camino Real.**

(a) No building shall be located less than thirty (30) feet from any portion of El Camino Real to any portion of the building.

(b) Within the required setback from El Camino Real there shall be maintained only paved walks, paved driveways, lawns and landscaping. The landscaping shall be consistent with landscaping in the surrounding areas, and shall screen parking areas from passersby on El Camino Real. The City Council may, as a condition of any Use Permit, require a landscaping plan for the area within the required setback.

(c) The restrictions apply to property adjacent to El Camino Real the entire length of said street from the northern boundary of Colma to the Mission Road junction.

[N.B. Section 2 of Ordinance No. 270 (effective 7/9/82) provided as follows: "The requirements of this section shall not be construed to require the removal or other changes or alteration of any structure not conforming thereto as of the effective date hereof or otherwise interfere with the continuance of any non-conforming use; but shall apply to any replacement, addition, or substantial alteration of any such non-conforming structure."]

[History: formerly § 5.336.1; ORD. 270, 6/09/82; ORD. 638, 12/14/05]

### **5.03.370 Restrictions Applicable to Recreational Vehicles and Commercial Coaches.**

No person shall occupy a recreational vehicle, a park\_trailer, a truck camper, or a commercial coach, as those terms are defined in Health and Safety Code sections 18001.8, 18009.3, and 18010, in the Town of Colma except as follows:

(a) For temporary use as a field office or a business office during construction, alteration or repair of a project in the Town of Colma pursuant to a Temporary Use Permit issued under section 5.03.620 of this Code; or

(b) For use as an office in connection with a commercial use pursuant to a conditional use permit issued by the City Council under section 18300.1 of the Health and Safety Code of the State of California.

[History: formerly § 5.337; ORD. 244, 11/14/79; ORD. 280, 01/12/83; ORD. 638, 12/14/05; ORD. 720, 5/8/13]

### **5.03.380 Restrictions Applicable to Dumps.**

No person may hereafter use any land in the Town of Colma for disposal of solid wastes, except as follows:

(a) As to any disposal site being operated as a private dump on December 10, 1980, pursuant to a use permit from the Planning Commission of the Town of Colma, the operator of such dump or the owner of the land may use such land for disposal of solid wastes until December 31, 2010, or until termination (other than a revision, modification or amendment of

an existing permit or the replacement of an existing permit with a new and different permit) of the Solid Waste Permit from the State Solid Waste Management Board, whichever date is earlier, as a non-conforming use.

(b) As to any disposal site being operated as a public dump on December 10, 1980 pursuant to a use permit from the Planning Commission of the Town of Colma, the operator of such dump, or the owner of the land, may use such land for disposal of solid wastes until December 31, 1982, or until termination (other than a revision, modification or amendment of an existing permit or the placement of an existing permit with a new and different permit) of the Solid Waste Permit from the State Solid Waste Management Board, whichever date is earlier, as a nonconforming use. The expiration date specified in this subsection (2) shall be extended until December 31, 1983, pursuant to the following procedure:

(1) The operator shall file a written application therefore with the City Clerk after January 1, 1982 and prior to July 1, 1982, specifying the reasons for the application;

(2) The City Council shall conduct a public hearing on said application within sixty (60) days thereafter and shall approve the application upon presentation of substantial evidence by the operator showing that good cause exists for such extension and that such dump is not then being operated in violation of any ordinance, law or regulation.

[History: formerly § 5.338; ORD. 257,2/11/81; ORD. 638, 12/14/05]

### **5.03.390 Regulations Applicable to RMU Vendors.**

(a) *RMUs Prohibited.* It shall be unlawful for any person to operate, allow another to operate, or to permit the operation of an RMU on any public street; on any sidewalk; in any area of doorway or entranceway immediately abutting thereon; on any privately owned land without the permission of the owner or lessee of the property; or on any privately-owned land which is not otherwise in compliance with local zoning and building requirements.

(b) *Zoning Clearance Required.* It shall be unlawful for any person to operate, allow another to operate, or to permit the operation of an RMU on any privately owned property, outside of a building, in the Town of Colma without first obtaining a Zoning Clearance from the City Planner. Application for zoning clearance shall be made to the City Planner and shall include the following:

- (1) Name, address and telephone number of the RMU vendor.
- (2) An accurately drawn plan showing the proposed RMU location.
- (3) A drawing or photograph of the proposed RMU.
- (4) For RMU vendors not affiliated with the owner or lessee:
  - (i) Written permission of the owner or lessee of the property.
  - (ii) Verification that the vendor's State Equalization number lists the property address as point of sale.

- (iii) For RMU vendors operating a food establishment: Verification of Health Department permit.
- (iv) A zoning clearance fee, which shall be established from time to time by the City Council of the Town of Colma by resolution.

The City Planner shall coordinate the review of applications for zoning clearance and shall issue a clearance certificate to the applicant upon verification of the application materials, verification that the owner or lessee is operating in conformance with local zoning and building requirements and upon finding that the proposed location and design of the RMU unit will not hinder vehicular or pedestrian movement and will not violate any permit condition of the property owner or lessee.

(c) *Display of Clearance and Health Department Permit.* A countersigned copy of the zoning clearance must be displayed at the RMU. For food establishments, the vendor must display a valid Health Department permit.

(d) *Business License Required.* A separate business license is required for RMU vendors not affiliated with the property owner or lessee.

(e) *Non-transferability.* Zoning clearance shall be limited to a specific vendor and shall not be transferable to any other person or entity.

[History: formerly § 5.339, ORD. 506, 3/12/97; ORD. 524, 1/14/98; ORD. 638, 12/14/05]

#### **5.03.400 Application for Use Permit.**

(a) An application for a Use Permit shall be made on the Town of Colma Project Application and shall contain such information as is necessary to complete the Project Application. In addition, the application shall contain sufficient information to enable the City Council to determine whether the standards for granting a Use Permit are met.

(b) The application shall be reviewed by the City Planner for completeness in accordance with section 5.01.040 of this Code.

(c) Within ten days after the City Planner has determined that the application is complete, he shall transmit the same to the City Council with his recommendations. This time limitation is directory, not mandatory.

(d) A public hearing shall be held by the City Council prior to taking any action to grant or deny any Use Permit. The public hearing shall be conducted in accordance with the provisions of section 1.02.120 of this Code. Whenever possible, the public hearing required by this section shall be held at the same time as, and in conjunction with, the public hearing, if any, on the final EIR for the project for which the Use Permit or Variance is requested.

(e) An application for a Use Permit shall be accompanied by a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution.

(f) Applications for a Use Permit for Wireless Communications Facilities shall comply with section 5.17.070

[History: formerly § 5.340; ORD. 234, 3/14/79; ORD 443, 9/9/92; ORD. 524, 1/14/98; ORD. 638, 12/14/05; ORD. 728, 10/9/13]

#### **5.03.410 Standards for Granting Use Permit.**

(a) A Use Permit may be granted by the City Council only if:

(1) The specific proposed use will be consistent with the provisions of the General Plan and this subchapter;

(2) The granting of the Use Permit will not be detrimental to the public health, safety or public welfare, or materially injurious to properties or improvements in the vicinity;

(3) Existing property uses, large or small, will not be detrimentally affected by the proposed use;

(4) The granting of the Use Permit will not constitute a grant of special privilege inconsistent with the limitations imposed by this subchapter on the existing use of properties, large or small, within the Town of Colma;

(5) The City Council is satisfied that the proposed structure or building conforms to the purposes and intent of the General Plan and this subchapter; and

(6) The use will not constitute a nuisance as to neighboring persons or properties.

(7) If applicable, any findings required by Subchapter 5.17 are met.

(b) In granting a Use Permit, the City Council may impose such conditions as are deemed necessary and desirable to protect the public health, safety and welfare in accordance with the purposes and intent of the General Plan and this subchapter, provided that no Use Permit may be conditioned upon:

(1) The dedication of land for any purpose not reasonably related to the use of property for which the Use Permit is requested; or

(2) The posting of a bond to guarantee installation of public improvements not reasonably related to the use of the property for which the Use Permit is requested.

[History: formerly § 5.341; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

#### **5.03.420 Effective Date of Decision to Grant or Deny Use Permit; Reconsideration.**

The decision to grant or deny the application for a Use Permit shall become effective upon expiration of ten (10) days following action of the City Council, unless a written request for reconsideration along with a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution, shall have been filed with the City Clerk in

accordance with Section 1.02.260 of this Code within the ten (10) day period by any person affected by said decision.

[*History:* formerly § 5.342, ORD. 234, 3/14/79; ORD. 524, 1/14/98; ORD. 638, 12/14/05; ORD. 691, 07/14/10]

#### **5.03.422 Lapse of Use Permit; Extension.**

A Use Permit shall lapse and become null and void one (1) year following the date on which the Use Permit became effective unless, prior to the expiration of one (1) year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the Use Permit application, or unless the Use Permit is renewed. The City Planner shall determine whether or not construction has been commenced and diligently pursued as above required.

(b) Notwithstanding section (a) above, a Use Permit that would otherwise lapse pursuant to section (a) may be extended for an additional period of one (1) year from the Use Permit's original effective date in accordance with this subsection. A complete application for extension of the Use Permit setting forth good and sufficient reasons for the renewal must be filed with the City Planner at least 60 days in advance of the date that the Use Permit would otherwise lapse. The City Planner shall notice and conduct the public hearing on the application for extension of Use Permit as set forth in sections 1.02.230 and 1.02.240 of this Code. The City Planner may grant the application, with or without conditions, if the Planner finds that there is a good and sufficient reason to extend the permit and that the Use Permit continues to comply with the grounds set forth in section 5.03.410(a) of this subchapter. The Planner's decision to grant or deny the extension shall be in writing, explaining the bases therefore. More than one extension to a Use Permit may be requested and granted pursuant to this section.

(c) Any interested party may appeal a determination made by the City Planner pursuant to this section to the City Council in accordance with the procedures set forth in section 1.02.270 of this Code.

[*History:* ORD. 691, 07/14/10]

#### **5.03.424 Duration of Use Permit.**

The Use Permit, and all conditions attached thereto, shall run with the land unless:

- (1) There is a change in the law on ordinances authorizing such use; or
- (2) The Use Permit has lapsed in accordance with section 5.03.422 above or has been revoked in accordance with section 5.03.430 below.

[*History:* ORD. 691, 07/14/10]

#### **5.03.430 Revocation of Use Permit.**

A Use Permit may be revoked upon failure to comply with the provisions therefore. Revocation proceedings shall be initiated upon demand by the City Council. Written notice of the revocation proceeding shall be posted on the three (3) official bulletin boards of the Town of

Colma and mailed to the owner of the property affected at the address shown on the last tax roll of San Mateo County at least ten (10) days before the matter is brought before the City Council. In lieu of revocation, the City Council may add to, delete or amend conditions of the Use Permit.

[History: formerly § 5.343; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

#### **5.03.440 Non-Conforming Building and Uses.**

(a) A non-conforming building may be maintained, except as otherwise provided in this section, and repairs and alterations may be made to such building provided that in a building or structure which is non-conforming as to use regulations, no structural alteration shall be made nor shall a building be added to, or enlarged in any manner, unless such building, including such additions and enlargements, are made to conform to all regulations of the zone in which it is located. No non-conforming building shall be moved in whole or in part to any other location on the lot unless every portion of said building is made to conform to all the requirements of the zone in which it is located.

(b) A non-conforming building which is damaged or partly destroyed by fire, flood, wind, earthquake, or other calamity or Act of God or the public enemy, to the extent of more than fifty (50) per cent of its value at that time, may be restored provided the total cost of such restoration does not exceed fifty (50) per cent of the value of the building at the time of such damage. In the event such damage or destruction exceeds fifty (50) per cent of the value of such non-conforming building or structure, no repairs or reconstruction shall be made unless every portion of such building is made to conform to all regulations for new buildings in the zone in which it is located.

(c) Except as otherwise provided in this subsection the non-conforming use of a building, existing at the time this ordinance became effective, may be continued; the use of a non-conforming building may be changed to a use of the same or more restricted classification; however, if so changed, it shall not thereafter be changed to a use of a less restricted classification. A vacant non-conforming building may be occupied by a use for which the building was designed or intended if so occupied within a period of one (1) year after the effective date of this ordinance, and the use of a non-conforming building which becomes vacant after the effective date of this ordinance may also be occupied by a use for which the building was designed or intended if so occupied within a period of one (1) year after the building becomes vacant.

(d) A non-conforming use of a building conforming to the use regulations shall not be expanded or extended into any other portion of said building nor changed, except to a conforming use. If such a non-conforming use or portion thereof is discontinued or changed to a conforming use, any further use of such building or portion thereof shall be in conformity with the regulations of the zone in which said building is located.

(e) The non-conforming use of land (where no building is involved), existing at the time this ordinance became effective, may be continued; provided that no such non-conforming use of land shall in any way be expanded or extended either on the same or adjoining property, and further provided that, if such non-conforming use of land or any portion thereof is discontinued or changed, any future use of land shall be in conformity with the provisions of this ordinance.



[History: formerly § 5.344; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

#### **5.03.450 Application for Variance.**

(a) An application for a variance shall be made on the Town of Colma Project Application and shall contain such information as is necessary to complete the Project Application. In addition, the application shall contain sufficient information to enable the City Council to determine whether the standards for granting a variance are met.

(b) The application shall be reviewed by the City Planner for completeness in accordance with section 5.01.040 of this Code.

(c) Within ten (10) days after the City Planner has determined that the application is complete, he shall transmit the same to the City Council for his recommendations. This time limitation is merely directory, not mandatory.

(d) A public hearing shall be held by the City Council prior to taking any action to grant or deny any variance. The public hearing shall be conducted in accordance with the provisions of section 1.02.120 of this Code. Whenever possible, the public hearing required by this section shall be held at the same time as, and in conjunction with, the public hearing, if any, on the final EIR for the project for which the variance is requested.

(e) An application for a variance shall be accompanied by a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution.

[History: formerly § 5.345, ORD. 234, 3/14/79; ORD. 443, 9/9/92; ORD. 524, 1/14/98; ORD. 638, 12/14/05]

#### **5.03.460 Standards for Granting a Variance.**

(a) Variances from the terms of the zoning ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

(b) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

(c) In granting a variance, the City Council may impose such conditions as are deemed necessary and desirable to protect the public health, safety and welfare in accordance with the purposes and intent of the General Plan and this subchapter, provided that no variance may be conditioned upon:

(1) The dedication of land for any purpose not reasonably related to the use of the property for which the variance is requested; or

(2) The posting of a bond to guarantee installation of public improvements not reasonably related to the use of the property for which the variance is requested.

[History: formerly § 5.346; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

**5.03.470 Effective Date of Variance.**

The decision to grant or delay a variance shall become effective upon expiration of ten (10) days following action of the City Council, unless a written request for reconsideration along with a filing fee, which shall be established from time to time by the City Council of the Town of Colma by resolution, shall have been filed with the City Clerk in accordance with section 1.02.130 of this Code within said ten (10) day period by any person affected by said decision.

[History: formerly § 5.347, ORD. 234, 3/14/79; ORD. 524, 1/14/98; ORD. 638, 12/14/05]

**5.03.480 Application for Amendment.**

(a) An application for an amendment described in section 5.03.490(a) of this Code shall be made on the Town of Colma Project Application and shall contain such information as is necessary to complete the Project Application. In addition, the application shall contain sufficient information to enable the City Council to determine whether the standards for granting an amendment are met.

(b) The application shall be reviewed by the City Planner for completeness in accordance with section 5.01.040 of this Code.

(c) Within ten (10) days after the City Planner has determined that the application is complete, he shall transmit the same to the City Council with his recommendations. This time limitation is merely directory, not mandatory.

(d) A public hearing shall be held by the City Council prior to taking any action to grant or deny any amendment. The public hearing shall be conducted in accordance with the provisions of section 1.02.120 of this Code. Whenever possible, the public hearing required by this section shall be held at the same time as, and in conjunction with, the public hearing, if any, on the final EIR for the project for which the amendment is requested.

(e) An application for an amendment shall be accompanied by a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution.

[History: formerly § 5.348; ORD. 234, 3/14/79; ORD. 443, 9/9/92; ORD. 524, 1/14/98; ORD. 638, 12/14/05]

**5.03.490 Standards for Adopting Amendments to Zoning Ordinance.**

(a) This subchapter may be amended to change any property from one zone to another, or to impose any regulation authorized by state law not theretofore imposed, or to remove or modify any existing regulation theretofore imposed, if such amendment is justified by a change of conditions and is in the public interest.

(b) This subchapter may be amended for any purpose not described in subparagraph (a) above in accordance with state laws governing the adoption and amendment of ordinances in general.

[History: formerly § 5.349; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

### **5.03.500 Compliance.**

All departments, officials, or public employees, vested with the duty or authority to issue licenses, permits, or certificates of occupancy where required by law, shall conform to the provisions of this ordinance. No such permit or license for buildings, uses, or purposes where the same would be in conflict with the provisions of this ordinance shall be issued. Any such permit or license, if issued in conflict with the provisions hereof, shall be null and void.

[History: formerly § 5.350; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

### **5.03.510 Interpretation, Purpose, Conflict.**

(a) In interpreting and applying the provisions of this ordinance, they shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easement, covenant or other agreement between parties. Where this ordinance imposes a greater restriction upon the use of buildings or land, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this ordinance shall control.

(b) Whenever there is any question regarding the interpretation of the provisions of this ordinance or their application to any specific case or situation, the City Council shall interpret the intent of this ordinance by written decision and such interpretation shall be followed in applying said provisions.

[History: formerly § 5.351; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

### **5.03.520 Administrative Permits.**

(a) Whenever the Colma Municipal Code specifically provides that a permit or other entitlement regarding use of land may be issued administratively, the Zoning Administrator may administratively grant a use permit or other entitlement to use property in accordance with the procedures set forth in this section.

(b) Whenever a Conditional Use Permit for an identifiable parcel of property specifically provides that a permit or other entitlement regarding use of any portion or unit of that property may be issued administratively, the Zoning Administrator may administratively grant a use permit or other entitlement to use property in accordance with the procedures set forth in this section.

(c) An application for an Administratively-granted Permit shall be made on the Town of Colma Project Application form and submitted to the Zoning Administrator, along with an application fee which shall be established from time to time by the City Council of the Town of Colma by resolution. The application shall be reviewed by the Zoning Administrator for completeness. The Zoning Administrator shall notify the City Clerk's office and the applicant when the application is complete.

(d) If state law or this Code requires the use permit or other entitlement to be considered at a public hearing, the Zoning Administrator shall notice and conduct the public hearing as set forth in sections 1.02.230-1.02.240 of this Code

(e) Prior to issuing an administratively-granted permit or other entitlement, the Zoning Administrator must find that the proposed activity meets each of the criteria and standards required for issuance of the permit or other entitlement provided under state law or this Code.

(f) In administratively granting a use permit or other entitlement, the Zoning Administrator may also impose such conditions as are deemed necessary and desirable to protect the public health, safety and welfare in accordance with the purposes and intent of the General Plan and this subchapter.

(g) A decision of the Zoning Administrator to administratively grant or deny a permit or other entitlement shall be in writing, explaining the bases therefore, and may be appealed by any interested party to the City Council in accordance with the procedures set forth in section 1.02.270 of this Code.

(h) Notwithstanding any of the foregoing provisions of this section 5.03.520, an application for an administrative permit or other entitlement may be forwarded to the City Council for public hearing and determination in accordance with this Code whenever:

- (1) the Zoning Administrator determines, in his or her discretion, that it is in the public's best interest that the City Council rather than the Planner should consider the application; or
- (2) any council member gives written notice to the Zoning Administrator prior to the date and time scheduled to hear the application or within ten days after the hearing, requesting that the application be considered by the City Council.

[*History:* formerly § 5.355, ORD. 234, 3/14/79; ORD. 563, 10/18/99; ORD. 638, 12/14/05, ORD. 647, 07/12/06; ORD. 691, 07/14/10; ORD. 706, 3/14/12]

[*Cross-References:* § 5.03.070(c), Accessory Buildings; § 5.03.230, Minor Uses]

### **Temporary Use Permits**

#### **5.03.610 Purpose.**

The purposes of this ordinance are to:

- (a) Expedite the issuance of permits to businesses for temporary activities such as outdoor sales events and promotions, Christmas tree lots, and temporary storage, while requiring the businesses to adhere to minimum standards necessary to protect property values and the public health, safety and welfare while increasing commercial trade in the Town; and
- (b) Provide for the issuance of permits for on-site construction yards.

[*History:* New, ORD. 713, 10/10/12]

### **5.03.620 Permit Required; Effective Date.**

(a) No person may use or permit property to be used for a temporary use without first obtaining a Temporary Use Permit approved by the Zoning Administrator. Temporary or short-term activities that do not fall within the categories defined in this Division shall instead comply with the land use permit requirements and development standards that otherwise apply to the property.

(b) A Temporary Use Permit issued for a period of 45 days or less shall become effective on the date the permit is approved by the Zoning Administrator. A Temporary Use Permit issued for a period that exceeds 45 days shall become effective seven calendar days from the date the Zoning Administrator finds that a Temporary Use Permit should be issued.

[History: New, ORD. 713, 10/10/12]

### **5.03.630 Application Process; No Public Hearing.**

(a) To obtain a Temporary Use Permit, the applicant must submit an application on a form prescribed by the Zoning Administrator at least five working days before the use is intended to begin for Tier One Temporary Use Permits and at least fifteen working days before the use is intended to begin for Tier Two Temporary Use Permits. The application shall include written consent of the owner of the property or the agent of the owner. The application shall include a site plan showing the location of the proposed temporary use and a full description of the use, days proposed, hours proposed, equipment required, and any other information requested by the Zoning Administrator to review the proposed use.

(b) The application shall be reviewed by the Zoning Administrator to verify compliance with all applicable laws and regulations. Upon making the required findings specified in this Division, the Zoning Administrator may grant, with such conditions as are authorized herein, a Temporary Use Permit for the term specified in the Permit.

(c) A public hearing shall not be required for issuance of a Temporary Use Permit.

[History: New, ORD. 713, 10/10/12]

### **5.03.640 Tier 1 Temporary Uses.**

Notwithstanding any other provision of the Colma Municipal Code and subject to compliance with all applicable ordinances and regulations, the following uses are permitted upon issuance of a Tier 1 Temporary Use Permit:

(a) *Outdoor Sales Event in the Commercial Core.* An outdoor sales event may be conducted over a maximum of five consecutive days and not more than once every three calendar months. All Temporary Uses outside of the Commercial Core require a Tier 2 Temporary Use Permit.

(b) *Promotional Event.* A Promotional Event may be conducted over a maximum of five consecutive days not more than once a calendar year at any location. Hours for the event must be between 7:00 a.m. and 10:00 p.m. Events occurring before 7:00 a.m. or after 10:00 p.m. require a Tier 2 Temporary Use Permit.

(c) *Temporary Storage of Merchandise.* Outdoor storage containers may be used for the temporary storage of merchandise or inventory for a period not to exceed 45 days in a calendar year. The storage container must not be visible from any public roadway and must not occupy any required parking spaces. In all other cases, the use of outdoor storage container requires a Tier 2 Temporary Use Permit.

(d) *Construction Yard without Office or Overnight Facilities.* A property may be used for a Construction Yard without Office or Overnight Facilities during the period from commencement of construction under a valid building permit to completion of the construction or abandonment of the project. Storage containers must be located as far away from the public right-of-way as possible and be located to minimize loss of required parking for the site. Containers for removal or disposal of construction debris shall be removed as shortly after they are filled as is reasonably practicable.

(e) *Other Tier 1 Temporary Uses.* A property may be used for any other temporary use which, in the opinion of the Zoning Administrator, meets each of the following criteria:

- (1) The use is compatible with the district and surrounding land uses;
- (2) The use is for a period not to exceed five days in a calendar year;
- (3) The use will leave adequate on-site parking and access to accommodate both the permanent and temporary use of the property;
- (4) The use is limited to the hours between 7:00 a.m. and 10:00 p.m.; and
- (5) The use does not include any Tier 2 Temporary Uses.

[*History:* formerly § 5.329, ORD. 563, 10/18/99; ORD. 638, 12/14/05; ORD. 713, 10/10/12]

### **5.03.650 Tier 2 Temporary Uses.**

(a) Notwithstanding any other provision of the Colma Municipal Code and subject to compliance with all applicable ordinances and regulations, the uses described in this section are permitted upon issuance of a Tier 2 Temporary Use Permit.

(b) *Outdoor Sales Event outside of the Commercial Core.* An outdoor sales event may be conducted outside of the Commercial Core over a maximum of five consecutive days not more than once every three calendar months.

(c) *Construction Yards with Office or Overnight Facilities.* A property may be used for a Construction Yard with Office or Overnight Facilities during the period from commencement of construction under a valid building permit to completion of the construction or abandonment of the project. Storage containers must be located as far away from the public right-of-way as possible and be located to minimize loss of required parking for the site. Containers for removal or disposal or construction debris shall be removed as shortly after they are filled as is reasonably practicable.

(d) *Christmas Tree Lots and Pumpkin Patches.* Outdoor sales of holiday trees, pumpkins, and similar perishable goods, including decorations, may be conducted for a period of not more than 45 consecutive days in a calendar year.

(e) *Outdoor produce markets.* Outdoor sales of produce may be conducted one a week for not more than 25 weeks.

(f) *Indoor Seasonal Sales.* A holiday store, e.g., a store that sells primarily Halloween, Thanksgiving, Christmas or items celebrating a holiday, may be conducted in vacant commercial space for no more than 45 days in a calendar.

(g) *Overnight Facilities or Residential Trailers.* A mobile trailer or any structure with overnight facilities (e.g., a bed, kitchen or rest room) for security personnel may be permitted in conjunction with any Temporary Use.

(h) *Promotional or Sales Events.* A Promotional or Outdoor Sales Event that will occur before 7:00 a.m. and after 10:00 p.m. may be conducted over a maximum of five consecutive days not more than once a calendar year at any location.

(i) *Business or Sales Offices.* A business or sales office or facility may be permitted in conjunction with and during any Tier 2 Temporary Use.

(j) *Similar Tier 2 Temporary Uses.* A temporary use that does not meet the criteria for a Tier 1 Temporary Use may be conducted upon a finding that such use is compatible with the district and surrounding land uses.

[History: New, ORD. 713, 10/10/12]

### **5.03.660 Required Findings.**

(a) The Zoning Administrator may approve a Temporary Use Permit only upon making each of the following findings:

(1) The proposed use will be for a limited duration and time and will not permanently alter the character or physical facilities of the site where the use occurs;

(2) The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the area of such use or to the general welfare of the Town;

(3) The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas;

(4) The proposed use will not block fire lanes or required access roads, and will not pose a fire hazard; and

(5) The proposed use is not prohibited by an federal or state law or regulation or any other applicable provision of the Colma Municipal Code.

(b) The Zoning Administrator shall prepare a written decision on the Temporary Use Permit application, which shall contain the finding of fact upon which the decision is made.

[History: New, ORD. 713, 10/10/12]

**5.03.670 Conditions of Approval.**

(a) The Zoning Administrator may impose reasonable conditions deemed necessary to ensure compliance with the findings for a Temporary Use Permit or with other provisions of the Colma Municipal Code, including conditions:

- (1) Requiring completion of the temporary use by a specified date;
- (2) Requiring temporary parking facilities, including vehicular ingress and egress;
- (3) Regulating nuisance factors such as prevention of glare or direct illumination of adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
- (4) Regulating of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
- (5) Requiring sanitary or medical facilities;
- (6) Requiring solid waste collection and disposal;
- (7) Requiring security and safety measures;
- (8) Regulating signs;
- (9) Regulating operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested;
- (10) Requiring a performance bond or other security to assure that any temporary facilities or structures used for the proposed temporary use will be removed from the site following the event and that the property will be restored to its former condition; or
- (11) Requiring compliance with all other applicable laws and regulations, including the obtaining of other entitlement, licenses, permits, and inspections.

(b) The Zoning Administrator may impose other conditions to ensure that the operation of the proposed temporary use occurs in an orderly and efficient manner and in accordance with the intent and purpose of this Division.

**5.03.680 Term; Extension.**



(a) The Zoning Administrator may issue a Temporary Use Permit to allow multiple events of the same temporary use, e.g., multiple sales events or multiple promotional events, on condition that the expiration of the last such event shall not be later than one year after the beginning of the first such event covered by the permit.

(b) A Temporary Use Permit shall be issued for the term specified in the Permit, which shall not be greater than one year, except that the Zoning Administrator may grant a Temporary Use Permit for a Construction Yard for an initial term longer than one year.

(c) The Zoning Administrator may extend a Temporary use Permit for up to one year at a time.

[History: New, ORD. 713, 10/10/12]

### **5.03.690 Revocation.**

(a) Upon receipt of information that grounds for revocation may exist, the Zoning Administrator may hold a revocation hearing. Notice of the hearing shall be posted on the three Town bulletin boards and shall be served either in person or by registered mail on the owner of the property and on the permit holder at least three days prior to a hearing to revoke a Tier 1 Temporary Use Permit and at least ten days prior to a hearing to revoke a Tier 2 Temporary Use Permit. The notice of hearing shall contain a statement of the specific reasons for revocation.

(b) The Zoning Administrator may revoke an approved Temporary Use Permit upon finding that:

(1) It is reasonably foreseeable that the use may not end within the term specified in the Permit and that no good cause for extension thereof has been shown by the permit holder;

(2) It is reasonably foreseeable that the use may permanently alter the character or physical facilities of the site where the use occurs;

(3) Continued use will unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, or will constitute a nuisance, or will be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the area of such use or to the general welfare of the Town;

(4) Continued use will unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, or will create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas;

(5) The Temporary Use Permit was obtained by misrepresentation or fraud;

(6) The use for which the Temporary Use Permit was granted has ceased or has been suspended for six or more consecutive calendar months; or

(7) The conditions of the permit have not been met, or the temporary use is being or has recently been conducted contrary to the terms of the approval or in violation of a specific statute, ordinance, law or regulation.

(c) A written determination of revocation of a Temporary Use Permit shall be mailed to the property owner and the permit holder within 10 days of such determination.

[*History:* New, ORD. 713, 10/10/12]

**5.03.700 Appeal.**

(a) Any aggrieved person may appeal the Zoning Administrator's decision to deny a Tier 1 Temporary Use Permit or to grant or deny a Tier 2 Temporary Use Permit, in accordance with the procedures set forth in section 1.02.270 of the Colma Municipal Code. A decision to grant a Tier 1 Temporary Use Permit cannot be appealed.

(b) The City Manager may issue a stay of Zoning Administrator's decision while the appeal is pending.

[*History:* New, ORD. 713, 10/10/12]

**5.03.710 Posting.**

(a) For a Temporary Use Permit lasting less than 45 days, the Permittee shall post a copy of the Temporary Use Permit on the subject property throughout during the entire period of the temporary use.

(b) For a Temporary Use Permit lasting 45 days or more, the Permittee shall make a copy of the Temporary Use Permit available for inspection at the subject property during normal business hours throughout the entire period of the temporary use.

[*History:* New, ORD. 713, 10/10/12]