

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

### **Subchapter 5.08: Encroachments in Public Rights of Way and Watercourses**

#### **5.08.010 Definitions.**

For the purpose of this subchapter, the following words and phrases shall have the meanings ascribed to them as follows:

- (a) "City Engineer" means the City Engineer of the Town of Colma or his authorized agent;
- (b) "Encroach" or "encroachment" means going over, upon, or under or using any right-of-way or watercourse in such a manner as to prevent, obstruct, alter or interfere with its normal use and includes, without limiting the generality of the foregoing, the performance thereon of any of the following acts:
  - (1) excavating, filling or disturbing the right-of-way or watercourse;
  - (2) erecting or maintaining a flag, banner, decoration, post, sign, pole, fence, guardrail, wall, loading platform, mailbox, pipe, conduit, wire, or other structure on, over or under a right-of-way or watercourse;
  - (3) planting any tree, shrub, grass or other growing thing or removing, cutting or trimming any tree within a right-of-way or watercourse;
  - (4) placing or leaving on a right-of-way or watercourse any rubbish, brush, earth or other material of any nature whatsoever;
  - (5) constructing, placing or maintaining on, over, under or within a right-of-way any pathway, sidewalk, driveway, curb, gutter, paving or other surface or subsurface drainage structure or facility, or any pipe, conduit, wire or cable;
  - (6) traveling on the right-of-way, without a permit, by any vehicle or combination of vehicles or objects of dimension, weight or other characteristic not permitted by the California Vehicle Code without a special permit;
  - (7) constructing, placing, planting or maintaining any structure, embankment, excavation, tree or other object adjacent to a right-of-way or watercourse which causes or is likely to cause an encroachment;
- (c) "Permittee" means any person, firm, corporation, or public agency that proposes to do work or encroach upon a right-of-way or watercourse and has been issued a permit for such encroachment by the City Engineer;
- (d) "Private Contract" means a contract between two or more parties for the installation, construction, revision, operation or creation of an encroachment to which contract the Town is not a part;

(e) "Public Agency" means any city, county, public corporation or public district established through due process of law;

(f) "Public Street" means the full width of the right-of-way of any street, whether or not maintained by any public agency, except streets forming part of the State Highway System which is:

- (1) laid out or constructed as such by the Town;
- (2) laid out or constructed by others and dedicated to or acquired by the Town;
- (3) made a town street or to be made a town street as part of the subdivision of real property pursuant to the conditions of Chapter 5 or;
- (4) subject to public use in any other legally recognized manner;

(g) "Public Utility" means private and public corporations authorized by law to establish and/or maintain any works or facilities in, under or over any public street. This division shall not limit the power and duties vested in the Public Utilities Commission of the state, and in the event of any conflict, the Public Utilities Commission's rules shall govern;

(h) "Right-of-Way" means the full width of land, irrespective of the current use, which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public for street, highway, alley, drainage, flood control sanitary sewer, public utility, bicycle path or pedestrian walkway purposes;

(i) "Town" means the Town of Colma, a municipal corporation;

(j) "Watercourse" means a channel for the carrying of storm water, including both natural and artificial channels, and whether or not dedicated to or maintained by any public agency.

[*History*: formerly § 5.801; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.020 Exceptions.**

This ordinance shall not apply to officers or employees of the Town acting in the discharge of their official duties, or to any work being performed by any person, firm, or corporation pursuant to a construction contract with the Town.

[*History*: formerly § 5.802; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.030 Restriction of use.**

All permits granted pursuant to this title shall be subject to the right of the Town and any person or persons entitled thereto, to use any part of a public right-of-way for any purpose for which it may be lawfully used, and no part of a right-of-way may be unduly obstructed at any time.

[*History*: formerly § 5.803; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.040 Permit required.**

No person shall encroach or cause to be made any encroachment of any nature whatever within, upon, over, or under the limits of any right-of-way or watercourse without having first obtained a permit as required by this title.

[*History:* formerly § 5.804; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.050 Applicability to public utilities and other public agencies.**

(a) Public utilities and agencies performing work within Town rights-of-way or watercourses, with their own crews or through a contractor, shall abide by all provisions of this chapter. Public utilities and agencies may exempt themselves from the requirement to take out a separate encroachment permit for each individual job by paying a prescribed fee and taking out an annual encroachment permit. Annual permits shall apply only to minor work consisting of single service trenches not exceeding 40 feet in length and 2 feet in width, dug at a right angle to the centerline of the street within a street right-of-way, or the installation or replacement of single valve, meter hydrant or pole. Where the City Engineer determines that work constitutes more than minor work, he shall require a permit and he may require engineered plans for the work of replacing or relocating Town improvements that are disturbed. Plan checking and encroachment permit fees for more than minor work will be based on the extent of work involved in replacing or relocating the Town's improvements.

(b) When work is performed under an annual permit, the permittee shall give notice to the City Engineer of each encroachment within ten working days before the start of work by a contractor or within ten working days after start of work by the public utility company's or the public agency's own work force. A prescribed fee shall be paid to the Town for each work site where work is performed without required notice given to the town.

[*History:* formerly § 5.805; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.060 Prohibited encroachments.**

The following encroachments are specifically prohibited and no application will be accepted nor permits issued therefore:

(a) Construction or maintenance of a loading dock on or in a right-of-way;

(b) Installation or maintenance of underground tanks, vaults, or elevators, except that underground vaults may be permitted as a part of facilities owned or operated by public utilities and public agencies;

(c) Installation or maintenance of signs bearing flashing or moving lights, except for temporary warning signs, barricades or flashers required for protection of the public during construction operations;

(d) Construction, maintenance or repair of any fence in excess or six feet in height within fifty feet of a street intersection or a fence that cannot be easily seen through in excess of three and one-half feet in height within fifty feet of a street intersection within a public right-of-way;

[History: formerly § 5.806; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.070 Emergency work.**

This title shall not prevent any person from maintaining any pipe or conduit lawfully on or under any public street, or from making excavation, as may be necessary for the preservation of life or property or the restoration of public utility service when an emergency therefore arises during the hours the offices of the Town are closed, except that the person making an emergency use or encroachment on a public street shall notify the Town, and is required to apply for a permit therefore within one day after the offices of the Town are again opened. Any person performing an emergency during hours that the Town offices are closed, shall notify the police department.

[History: formerly § 5.807; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.080 Permit issuance authority.**

The written permits required by this title shall be issued by the City Engineer, subject to the provisions of this subchapter and other applicable laws, including the provisions of this Code regarding appeals from administrative decisions.

[History: formerly § 5.808; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.090 Permit application.**

The City Engineer shall prescribe and provide a regular form of application for the use of applicants for permits required by this subchapter. The application shall show such information and details as the City Engineer may deem necessary to establish the exact location, nature, dimensions, duration and purpose of the proposed use or encroachment.

[History: formerly § 5.809; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.100 Exhibits required.**

When required by the City Engineer, the application shall be accompanied by maps, sketches, diagrams or similar exhibits of the size and in the quantity as the City Engineer may prescribe, sufficient to clearly illustrate the location, dimensions, nature and purpose of the proposed encroachment and its relation to existing and proposed facilities in the right-of-way or watercourse.

[History: formerly § 5.810; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.110 Consent of other agencies.**

(a) Where a permit or permission from another agency for the work proposed is required, no permit shall be issued until and unless such permit is first obtained and evidence thereof filed with the City Engineer. The permittee shall keep himself adequately informed of all state and federal laws and local ordinances and regulations which in any manner affect the permit. The applicant shall at all times comply with and shall cause all his agents and employees to

comply with all such laws, ordinances, regulations, decisions, court and similar authoritative orders.

(b) In some instances, the Town does not own the lands which its streets traverse, its interest being limited to an easement only. Therefore, the permit covers surface operations only at all locations where the Town has no subsurface rights and in such cases does not purport to authorize any excavation, laying of pipelines, setting of poles or other operations below the surface of the right-of-way. In such cases it is the responsibility of the permittee to obtain the consent of the owner or owners of the underlying fee before undertaking below-surface operations.

[*History:* formerly § 5.810; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.120 Action on permit applications.**

(a) An application for an encroachment permit may be approved, conditionally approved or denied.

(b) The City Engineer shall not issue a permit for encroachment if the Engineer finds that:

- (1) The encroachment work proposed to be done thereunder will substantially damage the public ways, interfere with the current or future use of the public ways, create an unreasonable risk of harm to persons or property, or unreasonably limit access to the public ways by persons with disabilities without providing alternative accessible routes;
- (2) Issuance of the permit is not in the interest of the public and the Town; or
- (3) Issuance of the permit is inconsistent with the Town's General Plan or fails to meet requirements of the Colma Municipal Code.

(c) The City Engineer may issue a permit for the encroachment, attaching such conditions, as he may deem necessary for the health, safety and welfare of the public and the protection of the Town, including measures to protect the traveling public and the accessibility of the public way that is being encroached upon, if he or she determines that by doing so it would be in the interest of the public and the Town, no significant damage to the public ways would be created, and no unreasonable risk of harm to persons or property would be created. Nothing in this subsection shall require the City Engineer to approve an application subject to conditions, however.

(d) If the City Engineer finds the application is in conflict with the provisions of the Colma Municipal Code, he shall deny the permit, giving in writing the reasons for said denial.

[*History:* formerly § 5.812; ORD. 525, 1/14/98; ORD. 638, 12/14/05; ORD. 654, 2/12/07; ORD. 656, 3/14/07; ORD. 689, 3/10/10]

#### **5.08.130 Permit form and validity.**

Permits must be written on a form prescribed by the City Engineer and no permit shall be valid unless signed by him or his authorized representative.

[History: formerly § 5.813; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.140 Permit term.**

(a) Beginning of Work. The permittee shall begin the work or use authorized by a permit issued pursuant to this subchapter within ninety days from date of issuance, unless a different period is stated in the permit. If the work or use is not begun accordingly, then the permit shall become void.

(b) Completion of Work. The permittee shall complete the work or use authorized by a permit issued pursuant to this subchapter within the time specified in the permit. If at any time the City Engineer finds that the delay in the prosecution of completion of the work or use authorized is due to lack of diligence on the part of the permittee, he may cancel the permit and restore the right-of-way or watercourse to its former condition. The permittee shall reimburse the Town for all expenses incurred by the Town in restoring the right-of-way or watercourse.

[History: formerly § 5.814; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.150 Permit display.**

The permittee shall keep any permit issued pursuant to this title at the site of work or in the cab of a vehicle when movement thereof on a public street is involved, and the permit must be shown to any authorized representative of the City Engineer or law enforcement officer on demand.

[History: formerly § 5.815; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.160 Assignment.**

Permits shall be issued only to the person, firm or corporation making application therefore and may not be assigned to another person by the permittee. If any permittee assigns his permit to another, the permit shall become void.

[History: formerly § 5.816; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.170 Changes in permit or work.**

No changes may be made in the location, dimension, character or duration of the encroachment or use as granted by the permit except upon written authorization of the City Engineer. However, the location of underground pipes or conduits smaller than six inches in diameter shall be exempt from this requirement. No permit shall be required for the continuing use or maintenance of encroachments installed by public utilities, or for changes or additions therein or thereto or the construction or removal of service drops that require no excavation in a right-of-way or watercourse.

[History: formerly § 5.817; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.180 Fees.**

Fees for checking plans and encroachment permits will be those established and adopted by the Town Council from time to time by resolution. Where fees are calculated on the cost of the improvement, the cost shall be based on doing the work by contract. Where no contract for the work has been executed, the applicant shall supply an engineer's estimate of the contract cost of the work. Said estimate shall be subject to review, revision and approval by the City Engineer. Before a plan is checked or a permit issued, the applicant shall pay the Town the appropriate fee in accordance with said schedule. Where work for which a permit is required by this title is started or proceeded with prior to obtaining said permit, the fees shall be doubled.

[*History:* formerly § 5.818; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.190 Cash deposit or bond.**

Unless this provision is waived in the permit and before a permit is effective, the permittee shall deposit with the Town cash, cash equivalent or surety bond in a sum to be fixed by the City Engineer as sufficient to reimburse the Town for costs of restoring the right-of-way or watercourse to its former condition. However, if the encroachment is being performed under a contract with a utility company or public agency where the contractor is required to provide performance and defective workmanship and material bonds by that contract, a separate cash deposit or bond will not be required.

[*History:* formerly § 5.819; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.200 Bond for continuing use.**

An applicant for a permit for encroachment, which is to continue or remain within, under or upon a watercourse or right-of-way of a public highway beyond the time authorized for construction or installation shall file with the Town clerk a cash or cash equivalent deposit or surety bond issued by a company authorized to do a general surety business in the state, in a sum to be fixed by the City Engineer as sufficient to reimburse the Town for all expenses incurred by the City Engineer in making the watercourse available for flow of storm water or in making the right-of-way safe and convenient for the travel of the general public. The City Engineer may require an additional bond or cash deposit at any time when, in his opinion, the amount of the bond or cash deposit previously given is insufficient.

[*History:* formerly § 5.820; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.210 Condition of bond or cash deposit.**

The condition of any bond or cash deposit made pursuant to this title shall be that the permittee will diligently and with good faith comply with this subchapter and the term and conditions of the permit.

[*History:* formerly § 5.821; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.220 Bond payable to Town.**

Any bond or cash deposit required by the City Engineer pursuant to this title shall be filed and payable to the Town. Upon satisfactory completion of all work authorized in the permit and

fulfillment of all conditions of the permit, the bond or cash deposit will be released upon the expiration of ninety days from said date of completion.

[*History:* formerly § 5.822; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.230 Exemption to cash deposit and bond requirements.**

Cash deposits or bonds will not be required of any utility company or public agency which is authorized by law to establish or maintain any works or facilities in, under or over any public street or right-of-way or watercourse. However, this exemption shall not relieve the utility company or public agency of defective workmanship or materials guarantees.

[*History:* formerly § 5.823; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.240 Preservation of monuments.**

Any monument of granite, concrete, iron or other lasting material set for the purpose of locating or preserving the lines and/or elevation of any public street or right-of-way, property subdivision, or a precise survey point or reference point shall not be removed or disturbed without first obtaining permission from the City Engineer to do so, said permission to be granted in conformance with requirements set forth in specifications established by the City Engineer. Replacement of removed or disturbed monuments will be at the expense of the permittee in accordance with standards established by the City Engineer.

[*History:* formerly § 5.824; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.250 As-Built plans.**

At the completion of any permit work for which plans were required, the permittee shall submit two (2) sets of plans to the City Engineer showing the work as-built for his review and approval. No work shall be considered complete until required as-built plans have been approved by the City Engineer.

[*History:* formerly § 5.825; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.260 Mailboxes.**

All mailboxes must be placed in accordance with the rules and regulations of the United States Post Office Department, but no box shall be so placed within the road right-of-way as to endanger the life or safety of the traveling public, and mailboxes shall not be placed in sidewalk areas where they would cause the unobstructed width of the sidewalk to be less than four (4') feet. A permit is not required for the placing of mailboxes. However, the City Engineer will require property restoration of the right-of-way to its former condition at the expense of the property owner, upon the removal of the mailbox.

[*History:* formerly § 5.826; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.270 Storage of materials.**



Unless otherwise approved by the City Engineer, no material shall be stored within a public right-of-way or watercourse. Excess earth materials from trenching or other operations shall be removed from the pavement, traveled way, shoulder or watercourse as the trench is backfilled or other work carried forward.

[*History:* formerly § 5.827; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.280 Permittee liability.**

The permittee shall be responsible for all liability imposed by law for personal injury, property damage, or any claim related to lack of access by a person with a disability, proximately caused by work permitted and done by permittee under permit or proximately caused by failure on the permittee's part to perform his obligations under said permit in respect to maintenance. If any claim of such liability is made against the Town, its officers or employees, permittee shall defend, indemnify and hold them and each of them, harmless from such insofar as permitted by law. The permittee shall take out such public liability insurance as the City Engineer may specify. The Town shall be named as additional insured and shall be furnished with an original or certified copy of the insurance policy.

[*History:* formerly § 5.828; ORD. 525, 1/14/98; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

#### **5.08.290 Public safety.**

The permittee in the conduct of the construction, use or maintenance of an encroachment authorized by a permit issued pursuant to this subchapter shall provide, erect, and maintain such lights, barriers, warning signs, patrols, watchmen and other safeguards as are required and set forth by the Standard Specifications referenced in section 5.08.400. Any deficiency in the measures provided, whether or not they are in full compliance with the Standard Specifications, shall not excuse the permittee from complying with all requirements of law and appropriate regulations and ordinances or from adequately protecting the safety of, or maintaining the accessibility for, those using the public street. If, at any time, the City Engineer finds that suitable safeguards are not being provided, the Town may provide, erect, maintain, relocate, or remove such safeguards as are deemed necessary or may cancel the permit and restore the right-of-way to its former condition, all at the expense of the permittee.

[*History:* formerly § 5.829; ORD. 525, 1/14/98; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

#### **5.08.300 Maintaining traffic and street closures.**

(a) The permittee shall give particular attention to facilitating the flow of vehicular and pedestrian traffic, and to maintaining the public way so that it is accessible to persons with disabilities. The permittee may be required to remove excavating material from the site of the encroachment as it is excavated rather than stockpiling it on the street when such removal is necessary to allow accessibility by persons with disabilities or permit traffic to pass freely and safely.

(b) When the temporary closure of a public street to pedestrian and/or vehicular traffic is requested by the permittee, the permit shall be applied for at least two weeks in advance of the date of requested closure. The City Engineer shall determine the effect of the requested

closure and, if satisfied as to adequate, available, accessible, alternate detour routes, may issue a permit; attaching such conditions as he may deem necessary for the health, safety and welfare of the public and for the protection of the Town. When emergency situations arise due to unforeseen circumstances or other causes, the two week period may be waived. Before closure of any public street, the permittee shall notify the police, fire and paramedic authorities having jurisdiction.

[*History*: formerly § 5.830; ORD. 525, 1/14/98; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

#### **5.08.310 Proper execution of work.**

(a) The permittee must plan and execute the work or use so as to cause the least inconvenience to the general public and abutting property owners. Owners of abutting property shall be notified of inconvenience to them which will result from any street cut as directed and required by the City Engineer.

(b) Permittee shall provide free and unobstructed access to all mailboxes, fire hydrants, wheelchair ramps, or other accessible feature of sidewalks, water gates, valves, manholes, drainage structures and other public service structures and property that may be required for emergency use. Permittee shall not remove such public service structures and property or relocate same without proper permission from the authorities charged with control and maintenance of same.

(c) The permittee shall, at his own expense, preserve and protect any adjoining property and improvements likely to be damaged during the progress of excavation work by providing proper foundations, shoring, or other appropriate measures. Wherein the protection of such property it is necessary to enter upon private property, the permittee shall obtain permission to enter from the owner. In the event of damage to adjoining property or improvements, restoration, repair or replacement shall be at least equal in quality and shall match in character, dimension and finish of the damaged and adjacent property and improvements.

[*History*: formerly § 5.831; ORD. 525, 1/14/98; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

#### **5.08.320 Care of drainage.**

If the work, use or encroachment authorized in the permit issued pursuant to this subchapter interferes with the established drainage, the permittee shall provide for proper drainage as directed by the City Engineer. Should the permittee fail to properly care for drainage, the City Engineer shall notify the permittee to take corrective action. If the permittee fails to complete such corrective action immediately upon receiving said notice, the City Engineer shall take such action as may be necessary to correct the drainage at the expense of the permittee.

[*History*: formerly § 5.832; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.330 Restoring street or watercourse.**

Upon completion of the work, acts or things for which the permit was issued, or when required by the City Engineer, the permittee shall replace, repair or restore the right-of-way or watercourse at the place of work to the same condition existing prior thereto, unless otherwise

provided in the permit. The permittee shall remove all obstructions, impediments, materials or rubbish caused or placed within or upon the watercourse or the right-of-way under the permit, and shall do any other work or perform any act necessary to restore the watercourse or right-of-way to a safe and usable condition.

[*History:* formerly § 5.833; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.340 Notices to Town.**

All notices required by this subchapter to be given by the permittee to the City Engineer shall be given at Town Hall, Colma California.

[*History:* formerly § 5.834; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.350 Notices to permittee.**

Any notice to be given to the permittee shall be deemed to have been received by him upon mailing by regular mail to the address shown on the permit.

[*History:* formerly § 5.835; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.360 Beginning of work.**

Before beginning any work which is or includes excavation, construction of concrete sidewalk, curbs, gutters or driveway approaches, planting, trimming or removing trees, making, placing or causing an obstruction in the watercourse or traveled way, the permittee shall give the City Engineer two (2) working says notification.

[*History:* formerly § 5.836; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.370 Completion of work.**

The permittee shall, upon completion of all work authorized in the permit, notify the City Engineer. No work shall be deemed to be completed until notification of completion is given pursuant to this section and the work is acknowledged as complete by the City Engineer.

[*History:* formerly § 5.837; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.380 Maintenance of encroachments.**

After completion of all work, the permittee shall exercise reasonable care in inspecting and maintaining the area affected by the encroachment. For a period of one year after the completion of the work, the permittee shall repair and make good any injury or damage to any portion of the street which occurs as the result of work done under the permit including any and all injury or damage to the street which would not have occurred had such work not been done. By the acceptance of the permit, the permittee agrees to comply with the above. The permittee shall, upon notice from the City Engineer, immediately repair any injury, damage or nuisance in any portion of the right-of-way or watercourse, resulting from the work done under the permit. In the event that the permittee fails to act promptly or should the seriousness of potential injury or damage require repairs or replacement to be made before the permittee can

be notified or can respond to the notifications, the Town may, at its option, make the necessary repairs or replacement or perform the necessary work and the permittee shall be charged with all the expenses incurred in the performance of the work.

[*History:* formerly § 5.838; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.390 Relocation or removal.**

(a) When any encroachment authorized in this title is found to be in conflict with existing or proposed facilities or improvements owned, maintained or operated by the Town, such encroachment shall, upon written demand of the City Engineer, be altered, shored up, supported, protected, removed or relocated in such a way as to eliminate the conflict, said alteration, etc., to be at the sole expense of the permittee. Should the permittee fail to comply with said written demand within a reasonable period of time, the Town may cause such relocation of the encroachment at the expense of the permittee; provided, however, that this section shall not apply to any public utility possessing a franchise to operate within the Town, and the obligation of such public utility to relocate or remove encroachments shall be governed by the provisions of its franchise and applicable law.

(b) Permittee shall, upon uncovering any pipe or underground facility not previously located or anticipated except underground wire, water, gas and sewer service laterals, cease work immediately and shall notify the City Engineer. Permittee shall proceed with the work only after the proper utility has been notified and permission is granted by the City Engineer.

[*History:* formerly § 5.839; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.400 Standards and specifications.**

The City Engineer shall establish such standards and specifications as he may deem necessary for the proper construction, use and maintenance of encroachments. Any work or use done under such permit issued under provisions of this title shall conform to said standards and specifications. In the absence of specific standards and specifications recognized standards of construction or approved practices shall govern the work or use.

[*History:* formerly § 5.840; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.410 Inspection.**

The City Engineer is authorized to make such inspections in person or through authorized subordinates as he may deem necessary in connection with permits issued under this subchapter.

[*History:* formerly § 5.841; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.420 Procedure for abandoning a facility.**

Upon abandonment of any facility or equipment located above, on or below the surface of the street, the owner thereof shall notify the City Engineer in writing of such abandonment within not less than twenty days thereafter; and if, in the opinion of the City Engineer, said facility or equipment so abandoned should be removed, the owner shall commence the removal of the

same at the owner's own cost and expense within twenty days after receipt of notice to that effect from the City Engineer, or if, in the opinion of the City Engineer, any work should be done in the streets for the purpose of insuring the restoration of improved surface of said street to a useful, safe, durable or good condition as the result of such abandonment, the Town shall commence such work after twenty days written notice to the owner to that effect from the City Engineer, and when the work is completed, the Town shall send a bill to the owner for the total cost and expense thereof, which shall be collected in any manner authorized by law.

[*History:* formerly § 5.842; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.430 Planting or erection of trees, hedges, shrubbery, fences.**

(a) No tree, hedge, shrub or other planting, fence, trellis or similar structure shall be maintained across any existing walkway in a sidewalk area or road shoulder. The intent of this restriction is to keep free a walkway for pedestrian or other lawful public travel without interference by or with vehicular travel, and to keep such walkway accessible by and to persons with disabilities at all times. No encroachment of any nature will be permitted or maintained which impedes, obstructs, or denies such pedestrian or other lawful travel within the limits of the right-of-way of a public street, or which impairs adequate sight distance, accessibility for safe use by all pedestrians, including persons with disabilities, or vehicular traffic.

(b) No tree, hedge, shrub or other planting, fence, trellis or similar structure shall be maintained so as to protrude into any existing walkway in a sidewalk area or road shoulder, or so as to overhang any existing walkway in a sidewalk area or road shoulder in a way that creates less than 80 inches minimum vertical clearance at any point.

[*History:* formerly § 5.843; ORD. 525, 1/14/98; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

#### **5.08.440 Maintenance of trees, hedges, shrubbery, fences.**

The permittee, or the owner of the adjacent property, shall maintain the trees, hedges, shrubs, walls, fences or similar structures erected for landscaping purposes in a neat and orderly condition, and so as to maintain accessibility to the right-of-way by pedestrians and persons with disabilities at all times. If the encroachment is not maintained as specified in this subchapter, the City Engineer may order the permittee or property owner to remove the encroachment and restore the right-of-way or watercourse to its former condition at the expense of the permittee or property owner.

[*History:* formerly § 5.844; ORD. 525, 1/14/98; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

#### **5.08.450 Lawns and ground covers.**

Notwithstanding anything contained in this chapter to the contrary, any person may plant and maintain a lawn or ground cover of any grass, or type not prohibited by other law, within the right-of-way of a public street without a written permit. However, the lawn or ground cover shall not extend into the traveled way of the public street or into the drainage ditches, gutters or other drainage facilities, nor impede pedestrian travel, or the accessibility of the traveled way of the public street by persons with disabilities. The general public may not be denied the use of the planted area for pedestrian or other lawful travel. The Town may use the planted area

for any purpose whatsoever, and may issue a permit to any applicant to go thereon to perform work or otherwise encroach pursuant to this subchapter. If the lawn is damaged or disturbed in the course of an authorized encroachment, it will be removed and replaced by the permittee unless the permit specifically states otherwise.

[*History:* formerly § 5.845; ORD. 525, 1/14/98; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

#### **5.08.460 Street trees.**

Town council may adopt by resolution lists of trees which are approved for planting within the right-of-way and trees which are not approved for planting within the right-of-way. Trees not on either list shall be planted in the public right-of-way only if approved by the City Engineer.

[*History:* formerly § 5.846; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.470 Movements of Vehicles or objects--permit required.**

Before a vehicle or combination or vehicles or objects of weight or dimension or characteristic prohibited by law without a permit, as set forth in the California Vehicle Code in Section 35000 through 35552 is moved on any right-of-way, a permit to do so must first be granted by the City Engineer or as otherwise required by him. Construction "sheds" the width of which is not in excess of one hundred twenty inches, shall be considered as construction equipment in accordance with Section 345104(c) of the California Vehicle Code, provided however, that the permittee has complied with all other requirements set forth in said code.

[*History:* formerly § 5.847; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.480 Compliance with traffic laws.**

When authorized by a permit issued pursuant to this chapter to move a vehicle or combination of vehicles or load of dimension or weight in excess of that permitted by law, the permittee shall comply with the general law regulating traffic over a public street, including posted signs or notices which limit speed or direction of travel, or weight which may be placed upon a structure or the width or height that may be moved thereon or there over, or otherwise restrict or control travel on a public street. The permittee shall at all times conform to and abide by the practice and procedure necessary to make safe and convenient the travel of the general public, and to keep safe and preserve the public highway over an on which movement is being made. Any violation of this section shall cancel the permit issued to the permittee and the subject permittee to such penalties as may be invoked under this subchapter.

[*History:* formerly § 5.848; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

#### **5.08.490 Notice.**

Prior to commencing any move for which a permit is granted pursuant to this subchapter and section, the permittee shall give at least forty-eight hours written notice to all police and fire department authorities having jurisdiction.

[*History:* formerly § 5.49; ORD. 525, 1/14/98; ORD. 638, 12/14/05]

**5.08.500 Appeal.**

Any interested party who may be dissatisfied with an action taken by the City Engineer under this ordinance may appeal that action or decision in accordance with the procedures set forth in section 1.02.140 of the Colma Municipal Code.

*[History: formerly § 5.850; ORD. 525, 1/14/98; ORD. 638, 12/14/05]*