

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

### **Subchapter 5.16: Special Events**

#### **5.16.010 Findings and Purposes**

The intent of this subchapter is to provide a regulatory framework for permitting special events within the Town of Colma, whether on public or private property because special events may require support services from the Town and subject neighboring residents and businesses to noise and traffic.

The use of Town streets or other Town-owned or controlled property by large groups causes wear and tear on Town property and facilities, and requires Town staff time to provide support services such as traffic and pedestrian control and police and fire protection. Such uses also subject neighboring residents and businesses to noise and traffic. Similarly, special events on private property may require support services from the Town, such as health and safety inspections, and subject neighboring residents and businesses to noise and traffic.

Thus, the purposes of this subchapter are to ensure that special events are conducted so as not to violate any other ordinance or regulation of the Town or cause detrimental effects to public property, surrounding properties or the community, to protect the right to engage in expressive activities on Town property, and to regulate the time, place and manner of these activities in a reasonably and minimally restrictive fashion.

#### **5.16.020 Definitions**

(a) "Block parties" shall mean a festive gathering on a residential street for such purposes as barbecues, picnics, music or games requiring closure of a street, or a portion thereof, to vehicular traffic.

(b) "Departmental Service Charges" shall mean the reasonable and necessary costs that a department of the Town actually incurs in connection with activities for which a Special Events Permit is required under this subchapter, including, but not limited to, costs associated with fire safety, traffic and/or pedestrian control, the closure of streets or intersections, additional police protective services, the diverting of traffic, the salaries of Town personnel involved in administration or coordination of Town services for the event, the cost to the Town to provide support personnel, equipment, materials and supplies and related Town costs, such as fringe benefits or employee overtime.

(c) "Expressive activity" shall mean conduct protected by the First Amendment of the United States Constitution or Subchapter 1, Section 2 of the California Constitution, which conduct is the principal purpose of the event.

(d) "Film production event" shall mean the use of public or private property for commercial filming activities.

(e) "Indigent natural person" shall mean a person eligible for relief and support in the County of San Mateo as an indigent person under California Welfare and Institutions Code Section 17000 et seq., or as the/those section(s) is/are amended from time to time.

(f) "Parade" shall mean a parade, procession, march, demonstration, motorcade, promenade or pageant consisting of persons, animals or vehicles, or any combination thereof, traveling in unison and having a common purpose, design, destination or goal, which is conducted in, on, upon or along any public street, sidewalk or other property owned or controlled by the Town, or any portion thereof, which does not comply with normal and usual traffic regulations or control, or which may impede, obstruct, impair or interfere with the free use of such public street, sidewalk or other public property of the Town.

(g) "Public assembly" shall mean any group of 50 or more persons participating in an organized activity having a common purpose on or within a Town street, park, parking facility, sidewalk or other public property or right-of-way. A public assembly includes a parade.

(h) "Special event" shall mean:

(1) A Special Event Impacting Public Property, that is: any activity, regardless of the number of persons involved, that (i) directly involves the use of or indirectly impedes, obstructs, impairs or interferes with the free use of, any public property or facilities in a way that may require the provision of Town services in response, (ii) requires full or partial street closure, (iii) occurs in or on a public street, sidewalk, alley or other public right-of-way, or (iv) is likely to obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic;

(2) A Special Event on Private Property, that is: any activity conducted on private property, regardless of the number of persons involved, that (i) creates noise in excess of any applicable standards or regulations contained in this Code; (ii) involves the construction or installation of materials or devices using building, electrical, mechanical, plumbing, flammable or any similar materials such as any temporary or permanent tents, canopies or other structures; provided, that such construction or installation requires a permit or approval by any state or local regulatory agency; or (iii) is inconsistent with the permanent use to which the property may legally be put or the occupancy levels permitted thereon;

(3) A Public Assembly, that is: any parade or public assembly, as defined in this section; or

(4) A Special Commercial Event, that is: any non-recurring commercial event to which members of the public are invited for free or admitted for a fee and which does not meet the criteria for issuance of a temporary use permit pursuant to section 5.03.660 of this Code, such as a show, concert, festival, carnival, dance open to the public, exhibition, lecture, auction, boxing match, wrestling match, walk-a-thon, marathon run, cycling event, sporting event, or film production event.

(i) "Special event permit" shall mean a permit issued pursuant to this subchapter.

(j) "Spontaneous special event" shall mean a special event that is also an expressive activity, which is precipitated by news, circumstances or events coming into public knowledge fewer than thirty (30) calendar days before the proposed spontaneous special event.

(k) "Venue" shall mean the specific property, area or site for which a special event permit has been issued.

(l) "Working day" shall mean a weekday, e.g., Monday through Friday, in which City Hall is open and conducting business. Saturdays, Sundays and Town and federal holidays are not working days within the meaning of this subchapter.

#### **5.16.030 Unlawful to Obstruct Access**

(a) It is unlawful for any person organizing, conducting or participating in a special event or a spontaneous special event to obstruct, block, impede or impair access by emergency vehicles to the area on or around the special event.

(b) It is unlawful for any person organizing, conducting or participating in a special event or a spontaneous special event to obstruct, block, impede or impair access to disabled-accessible parking spaces, walkways, or ramps in the area on or around the special event.

#### **5.16.040 Spontaneous Special Events**

(a) An organizer of a spontaneous special event must give written notice to the Colma Police Department at least twenty-four (24) hours in advance of each proposed spontaneous special event. Such written notice must contain all of the following information:

(1) The name, address and telephone number of the person or persons seeking to conduct the spontaneous special event, which person or persons shall be considered the applicant for purposes of this subsection;

(2) The name, address and telephone number of the headquarters of the organization, if any, and of the organizer or responsible head of such organization by whom or on whose behalf the spontaneous special event is proposed to be conducted;

(3) The name, address and telephone number of the person who will chair the spontaneous special event and who will be responsible for the conduct of the participants;

(4) The location and date of the spontaneous special event, including the assembly area, disbanding area, and the route to be traveled, if applicable;

(5) An estimate of the approximate number of persons who will be participating in the spontaneous special event and an estimate of the approximate number of persons who will be observing the spontaneous special event;

(6) The time at which the spontaneous special event will begin and conclude;

(7) The type of security or other arrangements that will be provided to assure that participants are properly directed;

(8) The written notice shall be accompanied by a declaration under penalty of perjury demonstrating that the failure to submit a timely application for a Special Events Permit was not within the applicant's control because the precipitating news, circumstances or events

did not exist, or could not have been known to the applicant in time to file a timely application under this subchapter.

(b) The Chief of Police may deny permission to conduct a spontaneous special event if he or she makes a written finding requiring denial pursuant to this subchapter within twelve (12) hours of the receipt of the application. If the Chief of Police makes a finding pursuant to this subchapter, he or she shall immediately provide notice of the denial, including the reason or reasons for the denial, by telephone and in writing, to the applicant. In lieu of denial, the Chief of Police may propose to the applicant an alternative time, route, venue or manner of conducting the event which would be acceptable to the Town and would obviate any finding made pursuant to this subchapter. The Chief's determination concerning a permit for a spontaneous special event shall be final and conclusive in the matter, and subject to judicial review pursuant to California Code of Civil Procedure Section 1094.6 or 1094.8.

(c) The Chief of Police may impose reasonable time, place and manner restrictions on a spontaneous special event, and shall, prior to the commencement of the event, give the event organizer notice of those restrictions by telephone and in writing, if practicable.

(d) The Chief of Police shall use reasonable effort to consult with the City Attorney prior to taking action under paragraphs (c) and (d) of this section.

#### **5.16.050 Permit Required for Special Events**

(a) Except as provided by this Code or pursuant to the terms of a permit, lease or contract which has been specifically authorized by the City Council, no person shall conduct or cause to be conducted, participate or engage in, hold, manage, permit or allow another to conduct any special event, other than a spontaneous special event, within the Town that is subject to the provisions of this subchapter and not expressly exempt, without first having obtained a valid permit pursuant to this subchapter.

(b) The Zoning Administrator is authorized to issue permits for special events pursuant to the procedures established in this subchapter, with consultation with the City Attorney as needed.

(c) No permits issued under the provisions of this subchapter shall be transferable or valid for another venue or another applicant.

(d) Issuance of a special event permit pursuant to this subchapter does not obligate or require the Town to provide Town services, equipment or personnel in support of an event, although the Town may, in its sole discretion, provide such services, equipment or personnel if they are reasonably available and the event organizer makes provisions to reimburse the Town for the cost thereof, or the Town may provide such services, equipment or personnel at no charge if there is a public purpose to be furthered in doing so.

(e) Persons who desire to conduct, operate, maintain, organize, advertise, sell or furnish tickets to more than one special event in a 12-month period may submit a single application for an annual permit covering all special events specified in the application.

### **5.16.060 Exemptions to Special Event Permit Requirement**

(a) The following activities are exempt from the special event permit requirement:

(1) Tier 1 and Tier 2 temporary uses, as defined in sections 5.03.640 and 5.03.650 of this Code, conducted pursuant to lawfully issued and valid temporary use permit;

(2) Events or functions held in the Sterling Park Recreation Center, the Historic Museum, the Colma Community Center, the Police Station, or Town Hall, pursuant to the Town's rental policy set forth in Subchapter 2.01, sections 2.01.200, *et seq.*, of the Colma Administrative Code;

(3) Funeral processions conducted by a licensed mortuary or funeral home, and funerals and related events conducted by a licensed mortuary, funeral home or cemetery on the premises of the mortuary, funeral home or cemetery;

(4) Activities conducted by a governmental agency acting within the scope of its authority;

(5) Events conducted in or on residential property in a residential zone so long as the event does not create noise in excess of any applicable standards or regulations contained in this Code and conforms to all other applicable provisions of the Colma Municipal Code;

(6) Any activity otherwise constituting a special event conducted on private property that the Planner determines meets all of the following requirements: (i) does not directly involve the use of public property or facilities or indirectly impede, obstruct, impair or interfere with the free use of, any public property or facilities in a way that may require the provision of Town services in response; (ii) does not create noise in excess of any applicable standards or regulations contained in this Code; and (iii) does not involve the construction or installation of any temporary or permanent tents, canopies or other structures; provided, that such construction or installation requires a Town permit;

(7) Block parties on cul-de-sacs, provided that (i) the head of household of each residence abutting the portion of the street to be closed have approved the street closure, as evidenced by signatures provided to the City Planner, (ii) clearance for emergency vehicle access is maintained, (iii) any and all fees required by the Colma Fire Protection District or Colma Police Department for fire or safety inspections necessitated as a result of the street closure have been paid, (iv) barricades needed for street closure have been installed, and (v) the organizers have conformed to all other applicable provisions of this subchapter and Code, including the requirement to obtain an encroachment permit under subchapter 5.08 of this Code; and

(8) Events involving expressive activity including, but not limited to, lawful picketing, provided that participants comply with all applicable traffic regulations, laws and controls.

### **5.16.070 Application for Special Event Permit**

(a) An application for a permit required by this subchapter shall be filed with the City Planner, on a form furnished by, or acceptable to, the City Planner, signed by the applicant

under penalty of perjury, and accompanied by the appropriate fee. If the application is filed by an organization, the application shall be prepared, signed under penalty of perjury, and filed by an officer of such organization, who is not less than 18 years of age. An indigent natural person may only apply on his or her own behalf and cannot apply on behalf of another person, corporation, association, partnership or other legal entity.

(b) The application fee shall be set by resolution of the City Council and posted in the Master Fee Schedule. An application fee shall not be required (i) when the Town is organizing or participating in the Special Event or (ii) from any organization that is exempt from federal income tax under IRC § 501(c) (3) and either has its principal office in Colma or is organized for the primary purpose of serving Colma residents or businesses, provided that the Special Event is reasonably related to its purpose.

(c) An application will be deemed complete unless, within five (5) working days, the applicant is given written notice that the application is incomplete and told what information is missing, either in person or by a letter addressed to the applicant and deposited in the U.S. mail. Notwithstanding the City Planner's acceptance of a completed application, no special event date shall be considered confirmed or take place until a special event permit is issued pursuant to this subchapter.

(d) No application filed for a special event proposed to take place fewer than fifteen (15) working days from the filing of the application will be accepted unless such special event is a spontaneous special event.

(e) In order that adequate arrangements may be made for the proper policing of the special event, an application for a special event permit required by this subchapter shall contain the following information:

(1) The name, address and telephone number of the applicant. If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized head of such organization. The person designated as the applicant by an organization shall provide written authorization from the organization verifying such designation;

(2) The name, address and telephone number of the person who will be present on the day of the event and responsible for management of the special event and an alternative person who may be contacted if the contact person is not available;

(3) The location of the property on which the event is to be held and, if it is private property, the name, address and telephone number and signature of the property owner authorizing the event to be held there;

(4) The description of the nature or purpose of the special event;

(5) The date(s) and estimated start and ending time when the special event is to occur;

(6) The hours of the special event;

- (7) Description of any sound amplification equipment which will be used at the event;
- (8) A trash and litter collection and off-site disposal plan; and
- (9) Such other information relating to the special event as the Zoning Administrator may require.

#### **5.16.080 Action by Zoning Administrator Upon Application**

(a) Upon receipt of a completed application required by this subchapter, the Zoning Administrator shall refer the application to such appropriate Town departments or outside agencies, as he or she deems necessary from the nature of the application, for review, evaluation, investigation and recommendations by the departments regarding approval or disapproval of the application and the estimated number of hours of service that will be incurred by each department in connection with the permit.

(b) In determining whether to approve an application, no consideration may be given to the message of the event, the content of any speech involved, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the level or nature of emotion which may be aroused in the public based on the content of any speech or message conveyed by the event.

(c) Within ten (10) working days of receipt of a completed application for a special event permit, the review and investigation shall be completed, and the Zoning Administrator shall issue a permit, unless the Zoning Administrator determines that grounds exist for denying the permit, as set forth later in this subchapter.

(d) The Zoning Administrator may impose conditions on any permit issued pursuant to this subchapter as necessary to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property, to control vehicular and pedestrian traffic in and around the venue, prevent negative impacts to surrounding persons and properties and to ensure compliance with all applicable provisions of this Code. The conditions shall be reasonable time, place and manner restrictions only and shall not be imposed in a manner that will unreasonably restrict expressive activity. Conditions, may include, but are not limited to, the following:

(1) The establishment of an alternate assembly or disbanding area for a parade, or similar event;

(2) The preservation of pedestrian and vehicular traffic, including restricting the special event to sidewalks, portions of a street or other public right-of-way;

(3) Conditions designed to avoid or lessen interference with public safety functions and/or emergency service access;

(4) That the event shall comply with all applicable accessibility requirements, including, but not limited to, parking, walkways, ingress, egress, restrooms, ramps, seeing and hearing devices, etc.;

(5) A limit on the number and type of vehicles, animals or structures to be displayed or used in the special event;

(6) The inspection and approval by Town personnel of stages, booths, floats, structures, vehicles or equipment to be used or operated in the special event to ensure that such structures or vehicles are safely constructed and can be safely operated, and conform to the requirements of all applicable state or local laws, rules and regulations;

(7) The provision and use of traffic cones or barricades;

(8) The provision or operation of first aid stations or sanitary facilities, including handicap accessible sanitary facilities;

(9) Restrictions on the time and use of amplified sound, and restrictions on the amount of noise generated by motors and other equipment used in the course of the special event;

(10) The obtaining of all applicable permits and licenses, including, but not limited to, building and electrical permits, San Mateo County fire authority approval, health department, Department of Alcohol and Beverage Control, etc.;

(11) The manner of providing notice of the permit conditions to permit participants and those businesses or residents who may be directly affected by the conduct of the special event;

(12) The provision or use of emergency services;

(13) The manner by which alcohol sales and service, if any, shall be conducted at the event;

(14) Compliance with all applicable federal, state and local laws, rules and regulations;

(15) Requirements for use and provision of garbage containers, cleanup and restoration of Town property;

(16) Permit applications for non-exempt block parties may be conditioned on notice and approval by at least fifty (50) percent of the residents on the affected street(s) and may not be issued without proof that the applicant has obtained an encroachment permit as required by subchapter 5.08 of this Code; and

(17) A cleaning deposit for the event, which shall be determined considering the use of structures, display or use of animals, operation of water stations, food distribution or sales, beverage distribution or sales, and/or sale of other goods and services.

#### **5.16.090 Grounds for Denying or Revoking Special Events Permit**

(a) The Zoning Administrator shall deny an application for a permit or revoke any permit if the Zoning Administrator finds any of the following:



- (1) The application contains materially false or intentionally misleading information;
- (2) The event or activity is proposed to be located, or is located, in or upon a premises, building or structure that is hazardous to the health or safety of the employees or patrons of the premises, business, activity or event, or the general public, under the standards established by the Uniform Building or Fire Codes, or other applicable state codes;
- (3) The event or activity is proposed to be located, or is located in or upon a premises, building or structure that lacks adequate on-site parking for participants attending the proposed event or activity under the applicable standards set forth in this Code;
- (4) The event or activity is in conflict with other applicable provisions of any federal, state and local laws, rules and regulations;
- (5) The event or activity is scheduled to occur at a location and time in conflict with another event or activity scheduled for the same day or weekend, where such conflict would adversely impact the Town's ability to provide adequate services in support of other scheduled events or scheduled government functions;
- (6) The event will substantially interrupt public transportation, or other vehicular and pedestrian traffic, in the area of its location;
- (7) The event will require the diversion of public safety or other Town employees from their normal duties, so as to unreasonably reduce adequate levels of service or municipal functions to any other portion of the Town;
- (8) The concentration of persons, animals or vehicles will unreasonably interfere with the movement of police, fire, ambulance and other public safety or emergency vehicles on the street;
- (9) The event or activity will: (a) have a substantial adverse impact on the health and safety of the general public, and/or residents and businesses within a five hundred (500) foot radius of the event; and/or (b) violate the Town's noise standards set forth in this Code or established by resolution of the City Council;
- (10) The event or activity will take place in an area of the Town, or on any public right-of-way scheduled for maintenance, construction or repair prior to the submission of the application for the event and either: (a) the conduct of the event would interfere with such maintenance, construction or repair; or (b) the maintenance, construction or repair would represent a threat to the health or safety of the participants in the event;
- (11) The ability of persons to enter and exit residential or business properties impacted by the event will be unreasonably impaired considering factors such as the duration, size and scope of the event;
- (12) The proposed use, event or activity will have a significant adverse environmental impact;

(13) The applicant has violated condition(s) of a previous permit issued pursuant to this subchapter for the same or similar event within the prior thirty-six (36) months; provided, that the Town notified the applicant in writing of any such violation within sixty (60) days of the violation; Approval of any proposed private security forces;

(b) When the grounds for denial of an application are based on any of the circumstances specified in subsection (a) of this section, and those circumstances can be corrected by altering the date, time, duration, route, location or other detail of the special event, the Zoning Administrator shall, instead of denying the application, conditionally approve the application upon the applicant's acceptance of conditions for permit issuance. The conditions imposed shall provide only for such modification of the special event as are necessary to alleviate the circumstances set forth in subsection (a) of this section.

### **5.16.100 Departmental Service Charges**

(a) *Payment Required.* Each organizer or manager of a Special Event, and the owner of any private property on which the Special Event is being conducted, shall pay the Town all Departmental Service Charges actually incurred by the Town in connection with activities for which a Special Events Permit is required under this subchapter.

(b) *Indigent Persons.* Any indigent natural person who cannot apply for a Special Events Permit because of an inability to pay the required Departmental Service Charges due to such indigence shall not be required to pay the Departmental Service Charges set forth in this section. Application for indigent status shall be made at the time of submission of the permit application and shall be accompanied by such relevant information and documentation as may, in the opinion of the City Attorney, be reasonably necessary to verify such status.

(c) *Determination of Amount.* The Departmental Service Charges shall be determined by multiplying the hourly billing rate for each person required by the Town to provide support services to a Special Event times the amount of time spent on those activities plus all reimbursable expenses. The hourly rate to be billed by employees, agents, and consultants of the Town as Departmental Service Charges shall be periodically calculated by the City Manager to cover the salaries and benefits authorized by the City Council to be paid to the employee, agent or consultant, and shall be posted on the Town's website. Rates will be calculated in 15-minute increments. In no event shall the rates exceed the direct and indirect costs of the services provided.

(d) *Deposit and Payment Schedule.*

- (1) Upon receipt of an application for a Special Events Permit, the Zoning Administrator may require that the applicant deposit an amount equal to the estimated Departmental Service Charges likely to be incurred by the Town. The amount of the initial deposit shall be set forth in the Town's Master Fee Schedule. The deposit shall be paid in cash or other adequate security, as determined by the City Planner, within seven days of the Town's request for the same or at least two days prior to the Special Event, whichever is earlier.
- (2) When it appears that the actual costs have exceeded or will soon exceed the deposit on hand, the Zoning Administrator may require an additional deposit of

an amount equal to the estimated Departmental Service Charges likely to thereafter be incurred by the Town. At the time of requiring the subsequent deposit, the Town shall render an invoice describing the time and nature of Departmental Service Charges incurred to date.

- (3) Within thirty days after cessation of the Special Event, the Town shall render an statement describing the time and nature of all Departmental Service Charges incurred, and shall either submit the final invoice for Departmental Service Charges, if any, to the applicant or refund any unused deposit without interest.

(A) If the deposit was less than the total Departmental Service Charges, the applicant shall pay the difference to the Town, without interest, within 30 working days of being invoiced for such charges from the Town. Thereafter, interest will accrue on the unpaid balance at the legal rate.

(B) If the deposit was more than the total Departmental Service Charges, the Town shall refund the difference to the applicant, without interest, within 30 days after the event. Interest will accrue on any unreturned deposit at the rate of interest received by the Town on investments with the Local Agency Investment Fund (LAIF).

(e) *Remedies.*

- (1) The Town may pursue one or more of the remedies described in this section and any other remedy authorized by law for failure to pay Departmental Service Charges or to make any deposit required by this subchapter.
- (2) The City Council may deny a Special Events Permit application for failure to pay Departmental Service Charges or deposits in violation of this subchapter.
- (3) The Zoning Administrator may issue a Cease and Desist Order for failure to comply with the provisions of this subchapter. The Cease and Desist Order shall be served by posting a copy of the order at or near the property where the Special Event is scheduled to take place and mailing a copy of such notice to the applicant at the address shown on the application form and, if different, to the owner of the property where the Special Event is to occur, as shown on the last equalized assessment roll. Such order shall become effective immediately upon posting of the notice. After service of a Cease and Desist Order, no person shall perform any activity that would be subject to a Special Events Permit or that would be in violation of the terms of the Cease and Desist Order, except such actions as the Town determines are reasonably necessary to make Town property safe and secure or to cure the violation that is the subject of the Cease and Desist Order.
- (4) The City Attorney may bring an action may be brought in the name of the Town in any court of competent jurisdiction to collect the fees. In such action, reasonable attorney's fees shall be awarded to a prevailing plaintiff.

- (5) The City Manager, or his/her designee, may bring a small claims action in the name of the city to collect the Departmental Service Charges owed to the Town.
- (6) The remedies herein shall be separate and distinct from each other and in addition to all other remedies provided by the Colma Municipal Code and the laws of the State of California.

#### **5.16.110 Liability for Damage to Public Property**

If Town property is destroyed or damaged as a direct result of a Special Event, the applicant, each organizer or manager of a Special Event, and the owner of any private property on which the Special Event is being conducted shall reimburse the Town for the actual cost of replacing or repairing the destroyed or damaged property.

#### **5.16.120 Insurance and Indemnification**

(a) For all special events subject to the requirements of this chapter, the Zoning Administrator shall require as a condition of the issuance of a permit that the applicant obtain, furnish proof of, and maintain, a policy of insurance issued by an insurance company authorized to do business in the state of California. The insurance policy shall be endorsed to name the Town of Colma and its elected and appointed officers, agents, and employees as an additional insured, and shall provide that any other insurance maintained by the Town of Colma shall be in excess of, and not contributing to, the insurance coverage provided to the Town of Colma under the applicant's policy. The minimum limits of liability shall conform to a schedule which shall be adopted by a separate resolution of the City Council; provided, however, that in no case shall the minimum limits of liability be lower than \$1,000,000, combined single limits, per occurrence and in the aggregate.

(b) The applicant shall also be required to sign an indemnity agreement in a form approved by the City Attorney, which shall expressly provide that the applicant agrees to defend, protect, indemnify and hold the Town, its elected officers, employees, volunteers and agents free and harmless from and against any and all claims, damages, expenses, loss or liability of any kind or nature whatsoever arising out of, or resulting from, the alleged acts or omissions of applicant, its officers, agents or employees, in connection with the permitted event or activity; and the permit shall expressly provide that the applicant shall, at applicant's own cost, risk and expense, defend any and all claims of legal action that may be commenced or filed against the Town, its officers, employees, volunteers and agents, and that the applicant shall pay any settlement entered into and shall satisfy any judgment that may be rendered against the Town, its officers, employees, volunteers and agents as a result of the alleged acts or omissions of applicant or applicant's officers, agents or employees in connection with the uses, events or activities under the permit. If an applicant provides proof that the insurance obligations, pursuant to subsection (a) of this section, provide contractual liability coverage for any obligations contemplated by the indemnity provisions herein, the Town agrees not to enforce the indemnity agreement against the applicant.

(c) Any indigent natural person who cannot apply for a permit because of an inability to pay for the required insurance due to such indigence shall not be required to provide the insurance obligations set forth in subsection (a) of this section or to sign an indemnity agreement required by subsection (b) of this section. Application for indigent status shall be made at the time of

submission of the permit application and shall be accompanied by such relevant information and documentation as may, in the opinion of the City Attorney, be reasonably necessary to verify such status.

#### **5.16.130 Revocation or Suspension of Special Event Permit**

(a) A permit issued under this subchapter shall be revoked or suspended by the Zoning Administrator if he or she finds that one or more of the following conditions exists and have not been corrected by the applicant after reasonable notice of the condition's existence has been given:

(1) The permit is being used to conduct an activity different from that for which it was issued;

(2) That one or more of the conditions listed in section exists;

(3) That the activity is being conducted in a manner which violates one or more of the conditions imposed upon the issuance of the permit pursuant to this subchapter or fails to conform to the plans and procedures described in the application;

(4) The applicant has violated or attempted to violate any applicable federal, state or local laws, rules or regulations;

(5) The special event is being conducted in a fraudulent or unlawful manner, or in a manner which endangers the public health or safety.

(b) Such revocation or suspension shall become effective immediately upon order of the Zoning Administrator and shall remain in effect until the applicant has corrected the violation or the permit has expired on its own terms.

(c) In the event a permit is revoked or suspended pursuant to the provisions of this section, another permit shall not be granted to the applicant within 12 months after the date of such revocation or suspension.

(d) The determination to revoke or suspend a permit shall be based upon written findings, and, if the revocation or suspension occurs prior to the date(s) of the special event, shall be subject to appeal to the City Council in accordance with Section 1.02.270 of this Code. The City Council's determination shall be final and conclusive in the matter, and subject to review pursuant to California Code of Civil Procedure Section 1094.6 or 1094.8.

#### **5.16.140 Appeals**

Any person aggrieved by the issuance, denial or revocation of a permit pursuant to this subchapter may appeal such decision in accordance with Section 1.02.270 of this Code, with the appellant's understanding that any appeal taken pursuant to this section and Section 1.02.270 may necessitate the postponement or delay of the activity for which the permit is sought.

#### **5.16.150 Permittee Duties**

A permittee under this subchapter shall comply with all applicable requirements of this

subchapter, all permit directions and conditions and all applicable federal, state and local laws, rules and regulations.

**5.16.160 Permit Possession**

The special event manager or other person responsible for the special event shall carry the permit upon his or her person during and throughout the conduct of the special event and shall present it to the Zoning Administrator, the Code Enforcement Officer, or any Colma peace officer upon request.

**5.16.170 Penalties**

(a) Any person violating any of the provisions of this subchapter shall be guilty of a misdemeanor.

(b) A violation of this subchapter is a nuisance which may be abated pursuant to subchapter 2.01 of this Code or any other manner permitted or authorized by law."