

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

Subchapter 5.17: Wireless Communications Facilities

5.17.010. Purpose.

The purpose of this subchapter is to establish uniform standards for the location, design, placement, permitting, maintenance, and modification of Wireless Communications Facilities (herein, "WCFs") consistent with applicable state and federal requirements. The standards are intended to:

- (a) protect and promote public health, safety, and welfare;
- (b) protect the aesthetic and visual character of the Town;
- (c) minimize potential adverse impacts of these facilities on the community through appropriate design, siting, screening techniques, and location standards;
- (d) provide for the wireless communications needs of residents, local businesses, and government agencies.

[*History:* ORD 728, 10/9/13]

5.17.020 Exemptions.

The following WCFs are exempt from the requirement for a Use Permit or an Administrative Permit under this subchapter, provided they meet the location and design requirements set forth below:

- (a) Interior and exterior facilities accessory to a permitted use of a site, limited to, television antennas, satellite dishes, and amateur radio facilities meeting all the requirements set forth below:
 - (1) Direct broadcast satellite dishes and television broadcast service antennas or other similarly scaled telecommunications devices shall not exceed one meter in diameter.
 - (2) Ground mounted antennas and support structures shall be located entirely on-site and meet all required setbacks. Antennas, including the support structure, shall not be located within front or side yard setbacks and shall be screened from public view to the extent practical. No portion of the antenna or support structure may over hang or extend beyond any property line.
 - (3) Antenna height shall not exceed the maximum allowable building height for the zoning district in which it is located by more than ten feet. The antenna support structure shall not exceed a width or diameter of twenty four inches.

- (b) Public safety facilities or installations required for public safety on public or private property , including transmitters, repeaters, and remote cameras so long as the facilities are designed to match the supporting structure.
- (c) WCFs accessory to other publicly owned or operated equipment for data acquisition such as traffic signal controls.
- (d) WCFs erected and operated for emergency situations, as designated by the Police Chief, or City Manager so long as the facility is removed at the conclusion of the emergency.
- (e) Multipoint distribution service antennae and other temporary mobile wireless service including mobile WCFs and services providing public information coverage of news events when placed at a location for less than two-weeks duration.
- (f) Mobile facilities when placed on a site for less than seven consecutive days, provided any necessary building permit is obtained.
- (g) Television broadcast and AM/FM radio antennas for commercial use. The antenna shall not extend more than fifteen feet beyond the maximum allowed building height for the zone.
- (h) Any WCF, if and only to the extent that a permit issued by the California Public Utilities Commission (CPUC) or the rules and regulations of the Federal Communications Commission (FCC) specifically provide that the antenna is exempt from local regulation.
- (i) Personal wireless internet equipment, such as a wireless router, provided that the equipment is included entirely within a building or residence.

[History: ORD 728, 10/9/13]

5.17.030 Application of Subchapter.

Except for the exemptions outlined in this subchapter, this subchapter shall apply to all types of WCFs in all zones, including in the Right-of-Way as defined in Section 5.08.010(h).

[History: ORD 728, 10/9/13]

5.17.040 General Requirements.

All WCFs shall comply with the following:

- (a) The General Plan and any other land use plan, policy and guideline adopted by the Town of Colma, including, but not limited to, the Zoning Ordinance;
- (b) The California Environmental Quality Act (CEQA);
- (c) The Federal Communications Act and all applicable requirements of the Federal Communications Commission and any other governmental agency with jurisdiction over the WCFs;
- (d) Federal Aviation Administration (FAA) regulations and permit requirements;

- (e) Any applicable public easements, and/or conditions of approval affecting development on any given parcel;
- (f) Human and occupational radio frequency emission standards adopted by the Federal Communications Commission (FCC), including any standards for cumulative radio frequency levels produced by antennas in conjunction with other sources of radio frequency emissions; and
- (g) The current adopted California Building Codes (Title 24), as well as other restrictions specified in this subchapter and other applicable provisions of the Colma Municipal Code.

[History: ORD 728, 10/9/13]

5.17.050 Development Standards.

- (a) WCFs are permitted with a Use Permit in the "C", "G", and "P" Zones provided WCFs in these zones shall be located no closer than 1,000 feet from any Residential District. WCFs are prohibited in the "R", "R-S", "PD" and "E" Zones unless permitted pursuant to Section 5.17.010 or Section 5.17.120.
- (b) *Preferred Sites:* The following is a list of preferred locations for WCFs within the "C", "G" and "P" Zones:
 - (1) On a Town-owned property (not including the Right-of-Way);
 - (2) On an existing building or structure;
 - (3) Co-located on an existing legal conforming WCF;
 - (4) On an existing utility pole or street light in the Right-of-Way, where the property directly adjacent to the Right-of-Way is in the "C", "G" or "P" Zone.
- (c) In the "G" Zone, WCFs shall be located so as not to be highly visible from any public street and shall be no higher than 36 feet from the ground if freestanding and no higher than 15 feet above the roof top if placed on a building.
- (d) In the "C" and "P" Zones, WCFs shall be located so as not to be highly visible from any public street and shall be no higher than 40 feet from the ground if freestanding and no higher than 15 feet above the roof top if placed on a building.
- (e) *Stealth Facilities:* All WCFs shall utilize state of the art stealth technology as appropriate to the site and type of facility. Specifically, all WCFs shall employ and maintain camouflage design techniques to minimize visual impacts and provide appropriate screening. Such techniques shall be employed to make the installation, operation and appearance of the WCF as visually inconspicuous as possible and to hide the installation from predominant views from surrounding properties.
- (f) *Setbacks:* All components of new WCFs must comply with the setback and yard requirements for the applicable zoning district. Depending upon specific site constraints and circumstances, the Town may choose not to apply this requirement to Antennas proposed to be

co-located on existing monopoles or utility poles or street lights, nor to underground equipment, if it would preclude use of the proposed site. No portion of any WCF shall overhang a property line. This restriction shall apply to any portion of any Antennas as they rotate or are in a fixed position.

(g) *Monopoles:* Every new support structure shall be a monopole rather than a lattice tower or guy-wire support tower, unless otherwise authorized.

(h) *Access:* No facility shall be built so as to cause the Right-of-Way in which the facility is located to fail to comply with the Americans with Disabilities Act or otherwise obstruct access.

(i) *Security:* All facilities shall be designed so as to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions, which would result in hazardous conditions, visual blight, or attractive nuisances.

(j) *Screening:* Any equipment that is not installed underground shall be screened by structures, topography, or vegetation to the maximum extent feasible.

(k) *Screening:* Coaxial cables, conduit lines and electrical boxes for ground-mounted Antennas shall be placed underground or within approved structures. Coaxial cables and conduit lines for roof-mounted or building-mounted Antennas shall be placed or camouflaged to minimize their visual impact to the maximum extent feasible.

(l) *Building Design:* Roof-mounted or building-mounted Antennas shall be in scale and architecturally integrated with the building design to appear visually unobtrusive. Screening may include locating the facility within existing steeples and towers or within a new architectural addition to a building or structure, which is architecturally compatible with the building. All flush mounted antennae(s) and support structures shall be painted to be architecturally compatible with the building on which it is located or painted to minimize the visual impacts where the structures extend above the roof line and minimize visual impacts from surrounding properties.

(m) *Public Art, Flagpoles, Artificial Natural Features:* Applicants are encouraged to design WCFs to serve as public art, flagpoles or artificial natural features such as trees or rocks.

(n) *Colors & Materials:* Unless otherwise required by Town, County, State or Federal rules or regulations, WCFs shall have a non-reflective finish and shall be painted a neutral color consistent with the predominant background color.

(o) *Lighting:* Signal lights or illumination shall be prohibited unless required by the FCC or the Federal Aviation Administration.

(p) *Signage:* The facilities shall not bear any signage, other than certification, warning, information, safety, and directional signage, or other non-commercial signage required by law or expressly permitted by the Town. Signage shall include a permanent, weather-proof identification sign identifying the operator and specifying a 24-hour telephone number at which the operator can be reached in case of emergency.

(q) *Tree and Landscape Preservation:* WCFs shall be installed in a manner so as to preserve existing protected trees and landscaping.

(r) *Site Disturbance:* Disturbance of existing topography and on-site vegetation shall be minimized, unless such disturbance would substantially reduce the visual impacts of the facility.

[History: ORD 728, 10/9/13]

5.17.060 Permit Requirements.

(a) Unless exempt, no WCF shall be constructed without first undergoing the specific review process and obtaining the prescribed permit.

(b) An application for a Use Permit for a WCF that falls within one of the categories below shall be subject to the administrative review process in Section 5.03.520.

(1) Modifications to an existing WCF that decrease or do not increase capacity, including alterations such as replacing the existing antenna with a smaller antenna, installing quieter equipment, or decreasing the number of antennas;

(2) Any "collocation facility" that meets the requirements of Government Code Section 65850.6;

(3) Any application for renewal of an existing Use Permit for WCFs issued pursuant to this subchapter.

(4) A satellite earth station antenna that is two meters or less in diameter or in diagonal measurement and is proposed to be located in the commercial zone, provided that the City shall waive any application requirements listed in 5.17.070 that are not necessary to accomplish health or safety objectives, and the administrative permit shall not contain any conditions not necessary to accomplish health or safety objectives.

(5) Any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station within the meaning of 47 U.S.C. §1455.

(c) All other applications for Use Permits for WCFs are subject to the review process in Section 5.03.400.

(d) Where a WCF is part of a network of WCFs that will be installed contemporaneously or sequentially, a single application shall be submitted for all facilities that would individually qualify for a Use Permit.

[History: ORD 728, 10/9/13]

5.17.070 Application for Use Permit.

(a) All applications shall be submitted to the planning department under the use permit procedures set forth in Section 5.03.400. The number, size and content of plans shall be determined by the City Planner. The City Planner may require information additional to that specified in this section, in order to properly assess a particular application. The City Planner may reject any application that does not meet the requirements of this subchapter or is otherwise incomplete.

(b) Submittals shall include all application materials generally required for a use permit, as provided for in Section 5.03.400, as well as the materials listed in this Section.

(c) Vicinity map, including topographic areas, one-thousand-foot radius from proposed site/facility, residential and school zones and major roads/highways. The distance of the proposed telecommunication project from existing residentially designated/zoned areas, existing residences, schools, major roads and highways, and all other telecommunication sites and facilities (including other providers locations) within a one-thousand-foot radius shall be delineated on the vicinity map.

(d) Site plan including and identifying:

(1) All facility related support and protection equipment;

(2) A description of general project information, including the type of facility, number of antennas, height to top of antenna(s), radio frequency range, wattage output of equipment, and a statement of compliance with current FCC requirements.

(e) Elevations of all proposed communication structures and appurtenances, and composite elevations from the street(s) showing the proposed project and all buildings on the site.

(f) Photo simulations, photo-montage, story poles, elevations and/or other visual or graphic illustrations necessary to determine potential visual impact of the proposed project. Visual impact demonstrations shall include accurate scale and coloration of the proposed facility. The visual simulation shall show the proposed structure as it would be seen from surrounding properties from perspective points to be determined in consultation with the community development department prior to preparation. The Town may also require the simulation analyzing stealth designs, and/or on-site demonstration mock-ups before the public hearing.

(g) Landscape plan that shows existing vegetation, vegetation to be removed, and proposed plantings by type, size, and location. If deemed necessary, the City Planner may require a report by a licensed landscape architect to verify project impacts on existing vegetation. This report may recommend protective measures to be implemented during and after construction. Where deemed appropriate by the City Planner, a landscape plan may be required for the entire parcel and leased area.

(h) A written statement and supporting information, as requested by staff and/or the City Planner, regarding alternative site selection and co-location opportunities in the service area. The application shall describe the preferred location sites within the geographic service area, a statement why each alternative site was rejected, and a contact list used in the site selection process.

(i) Noise and acoustical information for the base transceiver station(s), equipment buildings, and associated equipment such as air conditioning units and back-up generators. Such information shall be provided by a qualified firm or individual, approved by the Town, and paid for by the project applicant.

(j) A report signed by a licensed professional engineer with expertise in radio communications facilities and the calculation of radio frequency emissions containing the following:

- (1) number and type of proposed antennas.
- (2) the make, model and manufacturer of the proposed antennas.
- (3) a description of the proposed antennas and all related fixtures, structures, appurtenances and apparatus, including the height above grade, materials and lighting.
- (4) the frequency, modulation and class of service.
- (5) transmission and maximum effective radiated power.
- (6) direction of maximum lobes and associated radiation.
- (7) a certification that the facility will comply with all applicable standards for radio frequency emissions, including cumulative effects, and a description of the manner in which the radio frequency emissions for the facility were calculated and the results of those calculations.

(k) A report signed by a licensed professional engineer specializing in structural engineering, containing the following:

- (1) in the case of an attached WCF, documentation of the ability of the building or structure to accept the antennas, the proposed method of affixing the antennas and the precise point at which the antennas shall be mounted.
- (2) in the case of a WCF with a support structure (e.g. monopole), documentation that the structure is capable of supporting the antennas and complies with applicable laws and codes, as well as the structure's capacity for additional collocated antennas, and the precise point at which the antennas shall be mounted.

(l) Statement by the applicant of willingness to allow others to collocate on the WCF and certifying that such collocation will be available to future applicants for WCFs, subject to good faith negotiations and technical feasibility.

(m) A signed copy of the proposed property lease agreement or pole attachment agreement, exclusive of the financial terms of the agreement, including provisions for removal of the WCF and appurtenant equipment within sixty (60) days of its abandonment.

(n) An evidence of needs report detailing operational and capacity needs of the provider's system within the Town of Colma or immediately adjacent areas. The report shall detail how the proposed WCF is technically necessary to address current demand and technical limitations of the current system, including technical evidence regarding significant gaps in the provider's coverage, if applicable, and that there are no less intrusive means to close that significant gap.

(o) A security plan which includes emergency contact information, main breaker switch, emergency procedures to follow, and any other information as required by the City Planner.

(o) A description of the anticipated maintenance program and back-up generator power testing schedule.

(p) Applications for renewal of existing Use Permits shall include name of the holder of the permit, the date the original permit was granted, whether there have been any changes to the WCF since the issuance of the original permit, a certification that the WCF is in compliance with the existing permit and all applicable statutes, laws, rules, and regulations, and a recertification of the information in (j) and (k) above.

[History: ORD 728, 10/9/13]

5.17.080 Findings for Approval of WCFs.

(a) A WCF Use Permit or a modification or change of conditions to an approved WCF may be granted only if it is found that the proposed facility:

(1) Is consistent with the General Plan and each element of it and will not adversely affect the policies and goals set forth therein;

(2) Strictly adheres to the development standards and other applicable regulations within this Chapter or, if applicable, an exception is granted;

(3) Based on information provided, is in compliance with all FCC and CPUC requirements, and is not otherwise detrimental to public safety, community welfare, and health, considering aspects over which the Town has purview;

(4) Will not create a nuisance or enforcement problem within the neighborhood;

(5) Incorporates general site considerations, including site layout, open space and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, height, walls, fences, public safety and similar elements that provide a desirable environment for the development;

(6) Incorporates general architectural considerations, including the character, scale and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and similar elements that ensure the compatibility of this development with other buildings and structures on the subject property and adjacent properties, as well as each element being consistent with the architectural style of the building or structure;

(7) Incorporates general landscape considerations, including the location, type, size, color, texture and coverage of plant materials, provisions for irrigation, maintenance and protection of landscaped areas and similar elements that ensure visual relief, including appropriate visual screening;

(8) Is designed to blend with the surrounding environment, with minimal visual impact; and

(9) Is designed, sited, and will be operated in a manner that does not adversely impact adjacent properties by noise, traffic, aesthetic, or other impacts over which the Town has purview.

(b) A WCF Use Permit or a modification or change of conditions to an approved WCF located in the Right-of-Way may be granted only if, in addition to satisfying the requirements of Section 5.17.040, it is found that the proposed facility satisfies the following criteria:

(1) The supporting structure and antennas will be located only in a Right-of-Way where telephone lines are aerial;

(2) The WCF will not have a significant adverse impact on the use of the Right-of-Way, including but not limited to, the safe movement and visibility of vehicles and pedestrians, and minimizes the visual impact of the facilities to adjoining properties;

(3) The WCF will not require an expansion of the footprint of the existing support structure (including guy wires) of more than 10%;

(4) If a new support structure is proposed, there is no existing support structure that can accommodate the proposed WCF and the new structure must be of a design, height, width, circumference and footprint consistent with existing support structures in the area.

[History: ORD 728, 10/9/13]

5.17.090 Standard Conditions.

(a) *Duration and Renewal of Use Permit.* Notwithstanding Section 5.03.424, the Use Permit for a WCF shall expire ten years from the date of approval, unless the Use Permit is renewed by the Town. An application for renewal shall be submitted at least six months prior to the expiration of the Use Permit.

(b) *Other Approvals:* The permittee shall obtain all other applicable permits, approvals, and agreements necessary to install and operate the WCF in conformance with federal, state, and local laws, rules, and regulations.

(c) *Facility Maintenance:* All WCFs and related equipment, including but not limited to fences, cabinets, poles, and landscaping, shall be maintained in good working condition over the life of the Use Permit. This shall include keeping the structures maintained to the visual standards established at the time of approval. The facility shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as is practicable, and in no instance more than ten (10) calendar days from the time of notification by the Town or after discovery by the permittee. All of the wireless communications facility equipment must be removed upon the expiration of the permit approval and/or when no longer in operation, whichever occurs first.

(d) *Performance Bond:* Prior to issuance of a building or electrical permit, the permittee shall file with the Town, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the

facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to 150 percent of the cost of physically removing the wireless communications facility and all related facilities and equipment on the site. The permittee shall reimburse the Town for staff time associated with the processing and tracking of the bond, based on established hourly rates. Reimbursement shall be paid when the security is posted.

(e) *Construction & Maintenance Hours:* The permittee shall make a good faith effort to minimize project-related disruptions to adjacent properties. Site improvement and construction work, including set-up, loading or unloading of materials or equipment, performed as part of this project is restricted to the hours between 8:00 a.m. and 6:00 p.m., Monday through Saturday. No noise-generating construction work shall be performed on Sundays or national holidays. Non-emergency maintenance is restricted to the hours between 8:00 a.m. and 6:00 p.m., Monday through Friday. No noise-generating maintenance work shall be performed on Saturdays, Sundays, or national holidays. Emergency maintenance and repairs are exempt from the restricted hours. Violation of this condition may result in issuance of a Stop Work Order or administrative citations.

(f) *Height Verification:* The property owner(s) or permittee shall submit a certification letter from a California certified land surveyor or registered civil engineer, which verifies that structure height complies with the approved construction drawings.

(g) *Encourage Collocation:* Where the wireless communication facility site is capable of accommodating a collocated facility upon the same site, the owner and operator of the existing facility shall allow another carrier to collocate its facilities and equipment thereon, provided the parties can mutually agree upon reasonable terms and conditions.

(h) *Town Access:* The Town reserves the right of its employee, agents, and designated representatives to inspect permitted facilities and property upon reasonable notice to the permittee. In case of an emergency or risk of imminent harm to persons or property within the vicinity of permitted facilities, the Town reserves the right to enter upon the site of such facilities and to support, disable, or remove those elements of the facilities posing an immediate threat to public health and safety. The Town shall make an effort to contact the permittee, prior to disabling or removing wireless communications facility elements.

(i) *Contact Information:* The permittee shall maintain on file with the Town and onsite at the wireless communications facility contact information of all parties responsible for maintenance of the facility.

(j) *RF Emission Monitoring:* WCFs, whether operating alone or in conjunction with other facilities, shall not generate radio frequency emissions in excess of the standards established by the Federal Communications Commission. Within one (1) month after construction of the wireless communications facility and once every three (3) years thereafter, the property owner(s) or permittee shall submit a current RF exposure report, prepared by a professional engineer to the Planning Services Division, to ensure that no modifications to the site, surrounding environment, or equipment wear and tear have caused an increase in RF exposure. In the event of an increase over accepted levels is detected, the permittee shall be responsible for immediately making the necessary adjustments to comply with FCC standards;

(k) *Additional Conditions:* Any approved wireless communication facility within a Right-of-Way shall also be subject to all the requirements of subchapter 5.08.

(l) *Indemnification:* The permittee and property owner shall defend, indemnify and hold harmless the Town of Colma, its agents, officers, officials, and employees (i) from all claims, demands, law suits, writs of mandamus, and other actions or proceedings (collectively "Actions") brought against the Town or its agents, officers officials, or employees to challenge, attack seek to modify, set aside, void or annul this approval, and (ii) from any damages, liabilities, claims, suites, or causes of action of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or the land owner or any of each one's agents, employees, licensees, contractors, subcontractors, or independent contractors, pursuant to the approval issued by the Town. Further, permittees shall be strictly liable for interference caused by their WCFs with the Town's communications systems. The permittee shall be responsible for costs of determining the source of the interference, all costs associated with eliminating the interference, and all costs arising from third party claims against the Town attributable to the interference. In the event the Town becomes aware of any such actions or claims the Town shall promptly notify the property owner and shall reasonably cooperate in the defense. It is expressly agreed that the Town shall have the right to approve, which approval shall not be unreasonable withheld, the legal counsel providing the Town's defense, and the property owner and/or permittee (as applicable) shall reimburse Town for any costs and expenses directly and necessarily incurred by the Town in the course of the defense.

[History: ORD 728, 10/9/13]

5.17.100 Pre-Application Meetings.

Two pre-application meetings are recommended for WCFs. The first meeting should take place at the earliest stage of site location research and should include a service area map and description of the type of WCF sought. The second meeting is recommended after the site is selected and should include a preliminary site plan and visual impact drawings. These meetings are voluntary, and no fees shall be assessed for the Town's review of material submitted at this stage.

[History: ORD 728, 10/9/13]

5.17.110 State or Federal Preemption.

Notwithstanding any other provision of this subchapter to the contrary, the Town may grant an exception to any of the requirements of this subchapter if it makes a finding that the applicant has demonstrated that the refusal of the Town to grant such an exception would prohibit or have the effect of prohibiting the provision of personal wireless services within the meaning of 47 USC §332(c)(7), or otherwise is preempted or prohibited by state or federal law.

[History: ORD 728, 10/9/13]

5.17.120 Use of Outside Consultants

From time to time the Town may contract for the services of a qualified outside consultant to supplement staff in the review of proposed WCFs or in reviewing permittee compliance with this subchapter. The use of outside consultants shall be at the applicant or permittee's expense. The cost of these services shall be in addition to all other applicable fees associated with the project. The contracted or Town staff services shall be paid by the project applicant, and shall be contracted for and administered by the Town.

[History: ORD 728, 10/9/13]

5.17.130 Transfer of operation.

Permittee shall not assign or transfer any interest in its permits for WCFs without advance written notice to the Town. The notice shall specify the identity of the assignee or transferee of the permit, as well as the assignee or transferee's address, telephone number, name of primary contact person(s), and other applicable contact information, such as an e-mail address or facsimile number. The new assignee or transferee shall comply with all of the WCF's conditions of approval.

[History: ORD 728, 10/9/13]

5.17.140 Abandonment or discontinuation of use.

(a) Each permittee who intends to abandon or terminate the use of any WCF shall notify the Town of such intentions no less than sixty (60) days prior to the final day of use. Said notification shall be in writing, shall specify the date of termination, the date the WCF will be removed, and the method of removal.

(b) Non-operation, disuse (including, but not limited to, cessation of wireless services) or disrepair for ninety (90) days or more shall constitute abandonment by the permittee under this subchapter. The City Planner shall send a written notice of abandonment to the permittee.

(c) Upon abandonment, the Use Permit shall become null and void. Absent a timely request for a hearing pursuant to subdivision (e) of this section, the permittee must, at the permittee's expense, physically remove the WCF within ninety (90) days from the date of the abandonment notice. The WCF shall be removed in accordance with applicable health and safety requirements, and the site upon which the WCF was located shall be restored to the condition that existed prior to the installation of the WCF, or as required by the community City Planner. The permittee shall be responsible for obtaining all necessary permits for the removal of the WCF and site restoration.

(d) At any time after ninety (90) days following abandonment, the City Planner may have the WCF removed and restore the premises as he/she deems appropriate. The Town may, but shall not be required to, store the removed WCF (or any part thereof). The WCF permittee shall be liable for the entire cost of such removal, repair, restoration, and storage. The Town may, in lieu of storing the removed WCF, convert it to the Town's use, sell it, or dispose of it in any manner deemed appropriate by the Town.

(e) The permittee may request a hearing before a hearing officer appointed by the Town Manager regarding the notice of abandonment, provided a written hearing request is received by the City Planner within 10 days of the date of the notice of abandonment. The appeal hearing shall be conducted pursuant to Subchapter 1.12 of the Colma Municipal Code. The hearing officer shall issue a written decision. The decision of the hearing officer regarding abandonment of the WCF shall constitute the final administrative decision of the Town and shall not be appealable to the City Council. Failure to file a timely hearing request means the notice of abandonment is final and the WCF shall be removed within 90 days from the date of the abandonment notice.

(f) The abandonment of facilities in the Right-of-Way shall be governed by Section 5.08.240 in lieu of this Section.

[History: ORD 728, 10/9/13]

5.17.150 Revocation.

A Use Permit for a WCF may be revoked pursuant to Section 5.03.430.

[History: ORD 728, 10/9/13]

5.17.160 Appeals; Reconsideration

(a) Any person dissatisfied with the decision of the City Council to approve, deny, or revoke a Use Permit for the construction or modification of a WCF, excluding exempt facilities, may file a request for reconsideration in accordance with Section 1.02.260.

(b) Any person dissatisfied with the decision of the City Planner to approve, deny, or revoke a Use Permit for the construction or modification of a WCF, excluding exempt facilities, may file a request for reconsideration in accordance with Section 1.02.270.

[History: ORD 728, 10/9/13]

5.17.170 Applicability to Existing Facilities.

All existing WCFs that have all proper Use Permits, building permits, encroachment permits, and other entitlements approved by the Town as of the effective date of this subchapter shall be allowed to continue as they presently exist and will be considered legal non-conforming or legal conforming facilities, as the case may be. All existing WCFs that do not qualify as legal non-conforming or legal conforming facilities pursuant to the foregoing sentence as of the effective date of this subchapter shall be subject to the requirements of this subchapter. All new construction, other than routine maintenance on existing WCFs, shall comply with the requirements of this subchapter.

[History: ORD 728, 10/9/13]