

- (2) Agriculture, which is primarily open field;
- (3) A golf course.

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

- (1) Any use which now or hereafter may be customarily incident to a cemetery or memorial park use, including flower shops, monument shops, crematoriums, and cemetery corporation yards;
- (2) Any use which now or hereafter may be customarily incident to agriculture use, including nurseries, agriculture or flower growing utilizing greenhouses or shade structures, firewood yard, or landscape contractors yard;
- (3) Any use which now or hereafter may be customarily incident to a golf course, including clubhouse, sale of golf balls, golf shoes and clothing or golf clubs and equipment, lunch counter, conduct of "pro shop", practice range, practice green, and driving range.
- (4) Communications structures.

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

5.03.070 "R" Zone.

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

- (1) A single family dwelling;
- (2) A "small family day care home", as defined in the Health and Safety Code providing family day care to six or fewer children; and
- (3) Second dwelling units.

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

- (1) A multiple dwelling up to six units, provided that the proposed residential density does not exceed that specified in the Colma General Plan;
- (2) Residential Planned Development on land identified in the Colma General Plan as suitable for residential uses, provided the proposed residential density does not exceed that specified in the Colma General Plan;
- (3) Home office use;
- (4) A "large family day care home," as defined, and pursuant to the procedures and standards set forth, in Section 5.03.085 below.

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

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

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

5.03.080 "R-S" Zone

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

- (1) Single family detached dwelling;
- (2) A "small family day care home" as defined in the Health and Safety Code providing family day care to six or fewer children; and
- (3) Community parks and public buildings.

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

- (1) Home office use;
- (2) A "large family day care home" as defined, and pursuant to the procedures and standards set forth, in Section 5.03.085 below.

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

5.03.085 Large Family Day Care Homes.

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

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

(2) For purposes of this Section, "state law" shall mean and refer to the California Child Day Care Facilities Act (Health & Safety Code § 1596.70 *et seq.*), and the accompanying California Code of Regulations, and a "large family day care home" shall mean a home licensed by the State Department of Social Services or designee pursuant to state law that provides family child care for up to 12 children, or for up to 14 children including children under the age of 10 who reside at the home or are the children of an assistant childcare provider, for periods of less than 24 hours a day while the parents or guardians are away.

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

(i) The "concentration" standards in subsection (c)(3) are implemented to minimize traffic, parking and noise impacts on Colma residential districts which are high density with smaller minimum lot sizes than many other California communities. Residential densities in the region, for suburban neighborhoods with detached single family homes, range from 4.0 units per gross acre (1/4 acre lots) to about 8.7 units per gross acre (5,000 sq. ft. lots). Colma's small minimum lot size, 33-1/3 x 100 feet, results in a residential density of 13.1 units per gross acre which is already a comparatively high density for a single family neighborhood. Allowing large care family homes in close proximity with each other would result in an extremely high density inconsistent with the surrounding region. A minimum distance of 300 feet between homes, results in roughly one large family day care home per 1.5 to 2 acres.

(ii) The "traffic control/parking" regulations in subsection (c)(4) are implemented to provide adequate pick-up and drop-off areas in order to: (1) protect the safety of children being picked up and dropped off for care; (2) ensure that vehicles reentering arterial streets do so in a forward manner for the safety of patrons of the large family day care home and other motorists; (3) ensure that street traffic is not unduly interrupted; (4) minimize adverse parking impacts on residential streets that already face limited parking; and (5) prevent blockage of sidewalks and neighboring driveways. Streets in Sterling Park typically measure 30 feet between the face of the curb on opposite sides of the street. Emergency vehicles must be able to gain access to all parts of the area

without unnecessary delays. Regulations that allow only single-family detached residences as infill to Sterling Park will prevent overcrowded use of the streets in the area which in turn would allow unrestricted use of the streets by emergency vehicles and will promote public safety. The City Council also finds that there is high demand for available on-street parking spaces on both sides of streets in the Sterling Park neighborhood resulting in a narrowed travel way and an existing, restricted sight distance for motorists. The addition of large care family homes in close proximity to each other would generate additional motor vehicles, adding to the parking congestion problem and intensifying the existing public safety problem.

- (iii) The "noise" regulations in subsection (c)(5) are implemented to protect adjoining residential dwellings from noise impacts commonly associated with this use.
- (iv) Sterling Park is an existing, relatively high density residential neighborhood with minimal public park and open space. Residents must rely heavily on private yards for outdoor open space. Regulations that allow only single-family detached residences as infill to Sterling Park will preserve the public peace and promote public safety by preventing competition between tenants from adjacent units over available open space on the same parcel.

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

- (1) The application for such use permit shall be on a form provided by the City Clerk and shall be submitted to the City Planner accompanied by an application processing fee. The use permit application shall be processed as economically as possible and the processing fee shall, in no event, exceed the costs of the application review and permit process. An applicant may make a written request for verification of the application processing fees charged, and the Town shall provide a written breakdown of fees charged within 45 days of such request.
- (2) The City Planner shall issue said use permit if the City Planner determines that the large family day care home will comply with the requirements set forth below relating to such homes and with all other applicable state and local laws, rules and regulations, including without limitation, fire regulations.
- (3) Not less than ten (10) days prior to the date on which the City Planner will determine whether to issue the use permit, the City Planner shall give written notice of the proposed use by mail or delivery to all property owners within a 300-foot radius of the exterior boundaries of the proposed large family day care home at the addresses shown on the last equalized assessment roll. No hearing on the application shall be held prior to the City Planner's decision unless a hearing is requested by the applicant or other affected person. If a hearing is

requested, the City Council shall hold such hearing at its next regularly scheduled City Council meeting, and shall issue said use permit if it determines that the large family day care home will comply with all requirements set forth in Section (b)(2) above.

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

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

- (1) *License.* The provider of child care shall possess a current and valid Large Family Child Care Home license from the State of California, Department of Social Services. The Town's Use Permit shall not become effective until such time as the State license is obtained. If said license is suspended or revoked by the State for any reason, the Town's Use Permit for a Large Family Child Care Home shall immediately be suspended or revoked to the same extent.

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

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

- (4) *Traffic Control/Parking:*

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

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

- (iii) In addition to the minimum parking requirements for single family residences in the R and RS Zones set forth in Sections 5.03.250 and 5.03.260 respectively, a large family day care home shall provide one additional parking space for each employee not living at the residence. The residential driveway approach may serve as this additional parking space if the parking space will not conflict with any required child drop-off/pick-up area and does not block the public sidewalk or right-of-way.
- (iv) The large family day care home operation shall not result in cars blocking neighbors' driveways.
- (5) *Noise:* In order to protect adjoining residential dwellings from noise impacts, a large family day care home within any residential zoning district may only operate up to 14 hours each day between the hours of 6:00 a.m. and 8:00 p.m. and may only conduct outdoor activities between the hours of 8:00 a.m. and 7:00 p.m.
- (6) *Fire and Safety Standards:* A large family day care home shall contain a fire extinguisher and smoke detectors on every floor and shall comply with all applicable requirements of the Colma Fire Protection District and all applicable regulations of the California State Fire Marshal designed to promote the fire and life safety of the children in these homes, including without limitation, those adopted pursuant to California Health and Safety Code Section 1597.46(e) and those published in Title 24 of the California Code of Regulations.
- (7) *Smoking.* Smoking shall be prohibited during hours of operation by any person in all interior areas of a Large Family Day Care Home, and in all exterior areas while children are also present in such exterior area.
- (8) *Signs.* On-site signs shall be in compliance with Chapter 4.07, Regulating Signs.
- (9) Each home shall be inspected by the Town for compliance with the Uniform Housing Code and any regulations adopted by the State Fire Marshal which are applicable to large family day care homes.
- (10) In making a decision on a use permit application, the City Planner or City may consider and specify other reasonable conditions that relate to parking, traffic, noise and spacing and concentrations of large family child care homes.
- (d) Use of a single-family dwelling for the purposes of a Large Family Day Care Home shall not constitute a change of occupancy for purposes of State Housing Code, Section 17910, *et seq.*, or for purposes of local building and fire codes.
- (e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and Town of Colma Building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to the Health and Safety Code.