

(d) The failure to approve or disapprove a development project application within the time limits set forth in this section shall be deemed an approval of the project.

[*History:* formerly § 5.105; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

[*Reference:* GOV'T CODE §65920 et seq.]

#### **5.01.060 Enforcement; Misdemeanor.**

(a) It shall be the duty of the Police Department of the City, and all officers of said City otherwise charged with the enforcement of the law, to enforce this chapter.

(b) Any Person (as defined in section 1.01.100 of this Code) violating any of the provisions of this chapter, including, but not limited to, the provisions of sections 5.01.010, 5.02.010, 5.03.030, 5.04.010, 5.06.030, and 5.09.040, shall be guilty of a misdemeanor. Such person shall be deemed guilty for each day during any portion of which any violation is committed, continued or permitted and shall be punished as herein provided.

(c) The City Attorney, upon request of the City Council, shall institute any necessary civil proceedings to enforce the provisions of this chapter, and he is hereby authorized, in addition to the remedy herein provided, to institute an action for an injunction to restrain, or to institute any other appropriate action or proceedings to enforce such provisions.

[*History:* formerly § 5.106; ORD. 234, 3/14/79; ORD. 638, 12/14/05, ORD. 643, 4/12/06]

#### **5.01.070 Late Filing Fee.**

(a) If any person shall construct, reconstruct, alter, enlarge, move or maintain any building in the Town of Colma, or use or permit to be used any building or land in the Town of Colma, or split, diminish or maintain any lot area in the Town of Colma, without first obtaining all permit, licenses or other entitlements of use required of such person by this chapter, a late filing fee shall be assessed in connection with each such permit, license or other entitlement of use that should have been obtained.

(b) For each permit, license or other entitlement of use covered by subsection (a) above, the late filing fee shall be \$50.00 for each month or portion thereof from the date of first violation of any of the provisions of this chapter to the date that a completed application for such permit, license or other entitlement of use is received by the Town of Colma.

(c) Payment of the sums specified in this section shall not validate any action in violation of this chapter, and shall not relieve any person from liability under the provisions of section 5.01.060 of this Code.

[*History:* formerly § 5.107; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

#### **5.01.080 Definitions.**

Except where the context otherwise indicates, the following words and phrases shall have respective meanings ascribed thereto whenever such words and phrases are used in this chapter or in any amendments thereto hereinafter enacted:

*Lot* means land held under separate ownership and occupied or to be occupied by a building or unit group of buildings, together with such yards, open spaces, lot width and lot area as are required by this ordinance, and having its principal frontage on a street.

*Lot Depth* means the horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

*Lot Width* means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

*Medical Marijuana Dispensary* means any facility or location, whether fixed or mobile, where medical marijuana is made available to or distributed by or distributed to one (1) or more of the following: a primary caregiver, a qualified patient, or a patient with an identification card, as those terms are defined in California Health and Safety Code Section 11362.5 et seq. A "Medical Marijuana Dispensary" shall not include the following uses, as long as the location of such uses is otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a healthcare facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health & Safety Code, as long as such use complies strictly with applicable law, including but not limited to, Health & Safety Code Section 11362.5 et seq.

*Minor use* means a use determined by the City Planner to be incidental to and a minor addition to a generally permitted use or a conditionally permitted use of property. By way of example only, the following may be considered minor uses: the addition to a vehicular sales establishment of a detached tent for display purposes where the tent structure is significantly smaller than the permanent buildings on the site; the addition to an auto repair facility of a display space for on-site sale of auto accessories.

*Multiple dwelling* means a building comprised of two or more dwelling units.

*Non-Conforming Use* means a use which lawfully occupied a building or land at the time this ordinance became effective and which does not conform with the use regulations of the district in which it is located.

*Parking Access Way* means a private roadway or off-street aisle in a parking lot providing direct access to off-street parking spaces. Such facilities shall measure no less than twenty-four (24) feet wide and, in the case of private roadways, shall be the clear distance between face of curbs. Private roadways shall have vertical curbs and the curbs shall be painted red and clearly marked "NO PARKING".

*Parking Space* shall refer to off-street parking spaces in the quantity specified for the various zoning districts as further defined below:

(a) *Standard Parking Space* shall refer to a standard off-street parking space measuring no less than nine (9) feet wide by nineteen (19) feet long, with direct access to a parking access

aisle or street. Parked vehicles shall not be allowed to overhang adjacent landscape or walkway areas, and parking spaces shall not include landscape, walkway areas or parking access aisles in their dimension.

(b) *Compact Car Parking Space* shall refer to a standard off-street parking space specifically designed for compact car parking and measuring no less than seven and one-half (7-1/2) feet wide by sixteen (16) feet long. Compact car parking is subject to City Council approval and may be allowed up to a maximum of thirty percent (30%) of the total required off-street parking in large (over 100,000 square feet) commercial shopping centers only. Compact car spaces shall be located in accordance with such guidelines as may be established from time-to-time by resolution of the City Council.

(c) *Accessible Parking Space* shall refer to an off-street parking space specifically designed for use by disabled individuals. The number and sizes of these parking spaces shall be as required by the provisions of the Colma Building Code. Such spaces shall be located as close to the facility being served as practical."

*Processing costs* shall mean:

(a) the charges for the time spent by all employees, agents, and consultants of the city, except the City Manager, City Attorney, and their respective staffs, to investigate, review, process or recommend action with respect to a development project; and

(b) the reimbursable costs defined in this section.

*Processing fees* means the fees charged to recover processing costs.

*Reimbursable expenses* means reasonable and necessary transportation, transmission, copying and communication expenses directly related to investing, reviewing, processing or recommending action with respect to a development project.

*Retail Merchandising Unit (RMU)* shall mean a movable cart, kiosk or similar device occupying a specific location on a regular basis and tended by a person who, in any public place or place open to the general public, sells or offers for sale any goods, wares or merchandise over the counter of a kiosk or cart.

*Rooming house* shall mean a building used for residential purposes, other than a hotel, wherein three (3) or more rooms, without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence.

*Second dwelling unit* means a dwelling unit which provides complete independent living facilities on the same parcel as a legal single family dwelling including, but not limited to, the permanent provisions for sleeping, eating, cooking and sanitation.

*Short-term use* means a use, lasting no longer than sixty days in a calendar year, determined by the City Planner to be incidental to a generally permitted use or a conditionally permitted use of the property. By way of example only, the following may be considered short-terms uses: parking lot sales, Christmas Tree lots, musical and theatrical performances, use of shipping

containers for storage during building remodel or inventory shift related to a retail use; use of an existing, paved parking lot, or portion thereof, on property zoned for commercial or executive/administrative uses, for parking purposes by a nearby vehicular sales business.

*Single-family dwelling* means a detached building designed exclusively for occupancy by one (1) family.

*Street* means a public or private thoroughfare which affords the principal means of access to abutting property.

*Temporary use* means a use, lasting no longer than one year, determined by the City Planner or City Council to be incidental to a generally permitted use or a conditionally permitted use of the property. By way of example only, the following may be considered a temporary use: the use of an existing, paved parking lot, on property zoned for cemetery uses, for parking purposes by a nearby commercial establishment.

*Yard* means an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

*Yard, Front* means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

*Yard, Rear* means a yard extending across the full width of the lot between the main building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot line.

*Yard, Side* means a yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard.

[*History:* formerly § 5.110, ORD. 234, 3/14/79; ORD. 298, 6/13/84; ORD. 319, 5/8/85; ORD. 425, 7/10/91; ORD. 480, 5/10/95; ORD. 506, 3/12/97; ORD. 563, 10/18/99; ORD. 600, 6/25/03; ORD. 617, 6/16/04; ORD. 628, 5/11/05; ORD. 638, 12/14/05; ORD. 646, 7/12/06, ORD. 662, 9/12/07; ORD. 687, 1/13/10]

### **5.03.200 Amendment of Development Plan.**

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

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

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

### **5.03.210 Development Schedule.**

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

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

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

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

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

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

(a) No person shall operate a minor, short-term or temporary use in any zoning district without first obtaining a Use Permit therefore, which may be granted administratively in accordance with this Code.

(b) Any proposed minor, short-term or temporary use shall meet the following criteria and standards:

- (1) The proposed activity will not pose any significant land use consequences;
- (2) The proposed activity has direct access from a major or secondary thoroughfare;
- (3) Provision has been made to minimize noise and dust from the activity;

- (4) The property and principal building thereon is not in violation of any applicable zoning or building codes;
  - (5) Provision has been made, to the satisfaction of the City Planner, to discontinue the use, to clean the area, and to return the area to its previous state upon termination of the period authorized in the use permit for a short-term or temporary use;
  - (6) The granting of the Permit will not be detrimental to the public health, safety or public welfare, or materially injurious to properties or improvements in the vicinity;
  - (7) Existing property uses, large or small, will not be detrimentally affected by the proposed use;
  - (8) The granting of the Permit will not constitute a grant of special privilege inconsistent with the limitations imposed by this subchapter on the existing use of properties, large or small, within the Town of Colma; and
  - (9) The proposed use will not constitute a nuisance as to neighboring persons or properties.
- (c) The City Planner may impose such conditions on the issuance of the Administrative Use Permit as may be reasonably necessary to implement the purposes and intent of the Town's General Plan and Zoning Ordinance, including a condition that the permit holder post a bond or other security to guarantee compliance with this ordinance and the permit.

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

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

- (a) No commercial or business use of any kind shall be conducted in the "G" Zone, except such uses which are normally considered incidental to or accessory to a cemetery or memorial park, agriculture, or a golf course.
- (b) As to any golf course use, the following restrictions shall apply:
  - (1) Enclosed sanitary facilities shall be provided, with not less than three toilets for men and three toilets for women at each golf course;
  - (2) Paved parking area shall be provided for 200 automobiles or more, which area shall be located within 100 feet of the clubhouse. A paved two-lane access road is to connect the parking area and public street or road;
  - (3) No more than one sign advertising a golf course may be maintained or erected.
- (c) No building, other than a building used for cemetery purposes, shall exceed a height of thirty-six (36) feet in the "G" District.

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

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

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

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

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

#### **5.03.500 Compliance.**

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

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

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

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

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

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

#### **5.03.520 Administrative Permits.**

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

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

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

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

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

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

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

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

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

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