

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

**Subchapter 5.21: Wireless Communication Facilities in Public Rights-of-Way**

**5.21.010. Purpose.**

(a) The purpose of this Section is to establish a process for managing, and uniform standards for acting upon, requests for the placement of wireless communication facilities ("WCFs" or "wireless facilities") within the public rights-of-way ("ROW") of the Town consistent with the Town's obligation to promote the public health, safety, and welfare, to manage the ROW, and to ensure that the public is not incommoded by the use of the ROW for the placement of WCFs. The Town recognizes the importance of WCFs to provide high-quality communications service to the residents and businesses within the Town, and the Town also recognizes its obligation to comply with applicable Federal and State law regarding the placement of personal wireless services facilities in its ROW. This ordinance shall be interpreted consistent with those provisions.

**5.21.020 Definitions.**

The terms used in this Section shall be the following meanings:

**Application:** A formal request, including all required and requested documentation and information, submitted by an applicant to the Town for a wireless encroachment permit.

**Applicant:** A person filing an application for placement or modification of a wireless facility in the ROW.

**Base Station:** shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b)(1), or any successor provision.

**City Engineer:** shall mean the City Engineer of the Town of Colma, the Public Works Director of the Town of Colma, or his authorized agent.

**C.F.R.:** The Code of Federal Regulations.

**Eligible Facilities Request:** shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b)(3), or any successor provision.

**Encroach or Encroachment:** shall have the same meaning as set forth in Section 5.08.010(b).

**FCC:** The Federal Communications Commission or its lawful successor.

**Municipal Infrastructure:** Town-owned or controlled property structures, objects, and equipment in the ROW, including, but not limited to, street lights, traffic control structures, banners, street furniture, bus stops, billboards, or other poles, lighting fixtures, or electroliers located within the ROW.

**Permittee:** any person or entity granted a wireless encroachment permit pursuant to this subchapter.

**Personal Wireless Services:** shall have the same meaning as set forth in 47 U.S.C. Section 332(c)(7)(C)(i).

**Personal Wireless Services Facility:** means a wireless facility used for the provision of personal wireless services.

**Public Right-of-Way, or ROW:** means the full width of land, irrespective of the current use, which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public of street, highway, alley, drainage, flood control sanitary sewer, public utility, bicycle path or pedestrian walkway purposes and which the Town has the responsibility to maintain or manage.

**Small Cell Facility:** shall have the same meaning as “small wireless facility” in 47 C.F.R. 1.6002(l), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below:

- (1) The facility—
  - (i) is mounted on a structure 50 feet or less in height, including antennas, as defined in 47 C.F.R. Section 1.1320(d), or
  - (ii) is mounted on a structure no more than 10 percent taller than other adjacent structures, or
  - (iii) does not extend an existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is not more than 28 cubic feet in volume;
- (4) The facility does not require antenna structure registration under 47 C.F.R. Part 17;
- (5) The facility is not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x); and
- (6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

**Support Structure:** Any structure capable of supporting a base station.

**Tower:** Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed or personal wireless services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

**Underground areas:** Those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the ROW; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.

**Utility Pole:** A structure in the ROW designed to support electric, telephone and similar utility lines. A tower is not a utility pole.

**Wireless Encroachment Permit:** A permit issued pursuant to this subchapter authorizing the placement or modification of a wireless facility of a design specified in the permit as a particular location within the ROW; and the modification of any existing support structure to which the wireless facility is proposed to be attached.

**Wireless Facility, or Facility:** The transmitters, antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), and base station(s).

**Wireless Infrastructure Provider:** A person that owns, controls, operates or manages a wireless facility or portion thereof within the ROW.

**Wireless Regulations:** Those regulations adopted pursuant to Section 5.21.050 and implementing the provisions of this subchapter.

**Wireless Service Provider:** An entity that provides personal wireless services to end users.

### **5.21.030 Scope.**

(a) **In general.** There shall be a type of encroachment permit entitled a "wireless encroachment permit," which shall be subject to all of the same requirements as an encroachment permit would under the encroachment permit procedures set forth in Section 5.08.120 in addition to all of the requirements of this Section. Unless exempted, every person who desires to place a wireless facility in the ROW or modify an existing wireless facility in the ROW must obtain a wireless encroachment permit authorizing the placement or modification in accordance with this Section. Except for small cell facilities, facilities qualifying as eligible facilities requests, or any other type of facility expressly allowed in the ROW by state or federal law, no other wireless facilities shall be permitted pursuant to this subchapter.

(b) **Exemptions.** This subchapter does not apply to:

(1) The placement or modification of facilities by the Town or by any other agency of the state solely for public safety purposes.

(2) Installation of a "cell on wheels," "cell on truck" or a similar structure for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.

(3) The Wireless Communications Facilities set forth in Chapter 5.17 that are subject to a requirement for a Use Permit or an Administrative Permit.

(c) **Other applicable requirements.** In addition to the wireless encroachment permit required herein, the placement of a wireless facility in the ROW requires the persons who will own or control those facilities to obtain all permits required by applicable law, and to comply with applicable law, including, but not limited, applicable law governing radio frequency (RF) emissions.

(d) **Pre-existing Facilities in the ROW.** Any wireless facility already existing in the ROW as of the date of this subchapter's adoption shall remain subject to the provisions of the Town Code in effect prior to this subchapter, unless and until an extension of such facility's then-existing permit is granted, at which time the provisions of this subchapter shall apply in full force going forward as to such facility. The review of any request for a renewal of a permit for such pre-existing facilities shall be conducted pursuant to this subchapter, rather than the portion(s) of the Town Code that it was previously reviewed under.

(e) **Public use.** Except as otherwise provided by California law, any use of the ROW authorized pursuant to this Chapter will be subordinate to the Town's use and use by the public.

#### **5.21.040 Administration.**

(a) **Review.** The City Engineer or his or her designee is responsible for administering this subchapter. As part of the administration of this subchapter, the City Engineer may:

(1) Interpret the provisions of this subchapter;

(2) Develop and implement standards governing the placement and modification of wireless facilities consistent with the requirements of this subchapter, including regulations governing collocation and resolution of conflicting applications for placement of wireless facilities;

(3) Develop and implement acceptable designs and development standards for wireless facilities in the ROW, taking into account the zoning districts bounding the ROW;

(4) Develop forms and procedures for submission of applications for placement or modification of wireless facilities, and proposed changes to any support structure consistent with this subchapter;

(5) Determine the amount of and collect, as a condition of the completeness of any application, any fee established by this subchapter;

(6) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations;

(7) Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;