

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

Subchapter 5.22: Mobile Stores

5.22.010 Purpose.

The Town finds that the vending of foodstuffs, goods, and/or wares at semi-permanent locations within the public rights-of-way or on private property may pose unsafe conditions and special dangers to the public health, safety, and welfare of residents and visitors. The purpose of this Chapter is to implement regulations on Mobile Stores that protect the public health, safety, and welfare of the community while complying with the requirements of state law, as amended from time to time, to promote safe vending practices, prevent safety, traffic, and health hazards, and preserve the public peace, safety, and welfare of the community.

[History: Adopted by Ord.797, 10/23/19]

5.22.020 Definitions.

For the purposes of this Chapter, the following Definitions apply:

(a) "Certified Farmers' Market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

(b) "Corner cutoff area" means an area at all intersecting and intercepting streets or highways. The cutoff line shall be in a horizontal plane, making an angle of 45 degrees with the side, front, or rear property line, as the case may be. It shall pass through the points located on both sides and front or rear property lines at a distance of 30 feet from the intersection of such lines at the corner of a street or highway.

(c) "Mobile Store" Means any vehicle or non-motorized conveyance which is enclosed or semi-enclosed that sells various kinds of goods, wares, foodstuffs, or any other class of merchandise that may be stored or processed and is capable of being towed or driven from place to place for the purpose of making sales; provided, said terms shall not include vehicles used for delivery purposes only and said definition shall not include any sidewalk vending regulated by Subchapter 4.15 of this Code.

(d) "Mobile Store Permit" means a permit for mobile store uses as specified in this Chapter 5.20 of the Colma Municipal Code (CMC).

(e) "Special Event Permit" means a permit issued short-term use of property for a primarily non-commercial event such as a parade, street fair, concert or marathon as specified in Subchapter 5.16 of the CMC.

(f) "Swap Meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article

(g) "Temporary Use Permit" means a permit issued for a short-term use of property for a commercial use as approved by the Zoning Administrator as specified in Sections 5.03.610 through 5.03.710 of the CMC.

(h) "Town" means the Town of Colma.

[History: Adopted by Ord. 797, 10/23/19]

5.22.030 Permits Required.

(a) All Mobile Stores shall obtain one of three permits to operate in the Town depending on the location and duration of the proposed use.

1. A Special Event Permit (SEP) approved pursuant to this Chapter and Subchapter 5.16 of the CMC is required for one-time events such as street festivals on private property or in the public right-of-way.

2. A Tier 1 Temporary Use Permit (Tier 1 TUP) approved pursuant to this Chapter and to Sections 5.03.610 through 5.03.710 of the CMC is required for temporary mobile store uses on private property operating for a maximum of five (5) consecutive days within a Commercial Zone.

3. A Mobile Store Permit (MSP) approved pursuant to this Chapter of the CMC is required for permanent or recurring mobile store uses located in the public right-of-way, on public property or private property.

(b) In addition to one of the three permits listed in Subdivision (a) above, a Business Registration approved pursuant to Chapter 4.01 of the CMC is required prior to operation.

(c) *Exemptions.* A permit shall not be required for the following activities:

1. Catering for private parties and events held exclusively on private property and not open to the general public.

2. Catering for private events or functions held in the Sterling Park Recreation Center, the Historic Museum, Colma Community Center, Colma Police Station, or Town Hall, pursuant to the Town's rental policy set forth in Subchapter 2.01, sections 2.01.22, et seq., of the Colma Administrative Code.

3. Events permitted pursuant to a lawfully issued Temporary Use Permit or Special Event Permit including but not limited to a Certified Farmers' Market, Swap Meet, street fairs, outdoor concerts, and business promotional events.

4. Events organized by the Town of Colma or where the Town is a participant.

[History: Adopted by Ord. 797, 10/23/19]

5.22.040 Applicability of this Chapter to Permits.

This Chapter's requirements and procedures shall apply to the SEP and Tier 1 TUP when a Mobile Store is part of the application, and MSP as expressly stated herein.

[History: Adopted by Ord. 797, 10/23/19]

5.22.050 Application Requirements.

(a) *Applicability.* The provisions of this Section apply to an application for an SEP and Tier 1 TUP when a Mobile Store is part of the application, and an MSP.

(b) *For an SEP.* The following information shall be required at the time of application for an SEP:

5. The information required for an MSP under Subsection (d); and
6. Any additional information required by Subchapter 5.16.

(c) *For a Tier 1 TUP.* The following information shall be required at the time of application for a Tier 1 TUP:

7. The information required for an MSP under Subsection (d);
8. Any additional information required by Sections 5.03.610 through 5.03.710.

(d) *For a MSP.* The following information shall be required at the time of application for an MSP:

9. Name, current mailing address, and phone number of the applicant; and
10. If the applicant is an agent of an individual, company, partnership, or corporation, the name and business address of the principal; and
11. A Business description detailing the merchandise/goods to be offered for sale, days/hours of operation, the location where the vehicle is stored during off-hours, and how and where waste is handled and disposed of.
12. A site plan of the proposed location(s) where the Mobile Store will operate, Plans must show the number of parking spots utilized, sidewalk location and width.
13. A copy of the California seller's permit with the sales tax number issued by the California Department of Tax and Fee Administration to the applicant, if applicable; and
14. A Copy of the County Health Department Permit, if preparing or selling food items.
15. A copy of general liability policy naming the Town as additional insured in the amount of two million dollars (\$2,000,000.00) if in the Public Right-of-way or Public Property; and
16. A certification by the applicant that to his or her knowledge and belief, the information contained in the application is true and correct
17. Any additional relevant Information the Zoning Administrator or Public Work Director deems necessary for the review of the permit.

(e) *Fee.* At the time the permit or permit renewal application is filed, the applicant shall pay the permit processing fee established by separate resolution of the City Council.

[History: Adopted by Ord. 797, 10/23/19]

5.22.060 Review of Permit Application; Decision.

- (a) *Applicability.* This Section applies only to review of and decisions on an MSP.
- (b) *Review.* The Zoning Administrator may deny an MSP application if he or she makes any of the following findings:
 - 1. The applicant has made one or more material misstatements in the application for a permit.
 - 2. The applicant's operation, as described in the application, is inconsistent with the standards, conditions, and requirements of this Chapter.
 - 3. It is determined that the applicant does not possess all federal, state, and local permits and licenses necessary to engage in the activity in which he or she seeks to engage.
- (c) *Denial:* If the MSP application is denied, the reasons for disapproval shall be noted on the application, and the applicant shall be notified that his or her application is denied and that no permit will be issued.
- (d) *Approval:* If the Zoning Administrator approves the applicant's MSP, he or she shall endorse his or her approval on the application and shall deliver the permit to the applicant
- (e) *Term of permit.* An MSP issued pursuant to this Chapter shall remain valid as long as a current business registration is on file with the Town.
- (f) *Transferability.* An MSP shall not be transferable to any other entity or person and is valid only as to the original applicant.

[History: Adopted by Ord. 797, 10/23/19]

5.22.070 Mobile Store Locations and Standards.

- (a) *Applicability.* The provisions of this Section apply to Mobile Stores authorized under an SEP, Tier 1 TUP, or an MSP.
- (b) *Standards applicable to all Mobile Stores.*
 - 1. The vehicle or trailer in which the Mobile Store is located shall at all times be operated in compliance with the California Vehicle Code, the CMC, and with all posted parking, stopping, and standing restrictions.
 - 2. A Mobile Store shall not encroach on a public sidewalk, curb, bicycle lane, or travel lane with any part of the vehicle or trailer or any other equipment related to the operation of the business.
 - i. Trash and recycling bins may encroach on the sidewalk as long as a minimum of thirty-six (36) inches of clear sidewalk is maintained in compliance with the Americans With Disabilities Act (ADA).

- ii. At the town's discretion, tables, chairs and other site furniture may be allowed if enough space is available to accommodate diners and pedestrian access.
3. Queues shall be managed in a way that maintains a minimum of thirty-six (36) inches of clear sidewalk for the passage of pedestrians.
4. No portable signage such as a-frames or banner/flag signs shall be permitted on site
5. The operator shall pick up, remove, and dispose of all garbage, refuse or litter consisting of foodstuffs, wrappers, and/or materials dispensed from the vending vehicle and any residue deposited on the street from the operation thereof, and otherwise maintain in a clean and debris-free condition the entire area within a fifteen (15) -foot radius of the location where mobile store is located
6. The operator shall ensure that no pollutants, including food waste/grease, liquid wastes, garbage/debris, and other materials are discharged to the Town's storm drain system (including gutters, curbs, and storm drains)
7. The Mobile Store shall not attach or make use of any water lines, electrical lines, or gas lines during operation, and
8. The Mobile Store shall meet the Town of Colma's Foodware ordinance contained at CMC 4.13.
9. The Mobile Store shall not use amplified sound during operation.
10. The permit issued for the Mobile Store must be displayed in such a way as to be conspicuous. All Mobile Stores shall be required to exhibit their permits and/or licenses at the request of any person, in addition to posting them in a conspicuous place.

(c) *Mobile Stores operating in the Public Right-of-Way.*

1. Authorized Locations:
 - i. Mission Road north of Holy Cross Cemetery's Main Stone Entrance;
 - ii. Collins Avenue, at least three hundred (300) feet east of the Serramonte Blvd and Collins Ave intersection and
 - iii. The western street side portion of Hillside Blvd from F Street to Serramonte Blvd.
2. Hours:
 - i. Shall be conducted between the hours of 7:00 AM and 9:00 PM every day, At the town's discretion extended hours may be considered; and
 - ii. Shall be limited to a maximum of two hours of operation per day per location.
3. Requirements:
 - i. A Mobile Store shall be parked at least fifteen (15) feet away from a crosswalk and/or driveway entrance, and

- ii. Shall only conduct business when parked next to an unobstructed sidewalk of five feet or more, and
- iii. Shall only conduct business from a licensed vehicle or licensed trailer on a public street while parked in a legal parking space.
- iv. A Mobile Store may occupy a second parking space if the Mobile Store is larger than the Standard on-street space provided, (Generally 22 feet in length.)
- v. The remaining portion of the second spot, not occupied by the Mobile Store, shall be blocked off utilizing safety cones.
- vi. Shall provide a copy of general liability policy naming the Town as additional insured in the amount of \$2,000,000.00

(d) *Mobile Store operating on Private Property.*

- 1. Hours and Locations:
 - i. Shall not be located in a residentially zoned district.
 - ii. Shall be conducted between the hours of 7:00 AM and 9:00 PM every day, At the town's discretion extended hours may be considered.
- 2. Requirements:
 - i. Shall not obstruct a loading zone, accessible parking space or access ramp, or drive aisle.
 - ii. Shall provide proof of agreement with the property owner to lease the premises.

(e) Mobile Stores operating on Public Property

- 1. Hours and Locations:
 - i. Shall be Located at a Town-owned property with Town approval.
 - ii. Shall be conducted between the hours of 8:00 am and 5:00 PM every day, At the town's discretion extended hours may be considered.
 - iii. Shall be limited to a maximum of two hours of operation per day per location.
- 2. Requirements:
 - i. Shall only conduct business from a licensed vehicle or licensed trailer on a public street while parked in a legal parking space.
 - ii. A Mobile Store may occupy a second parking space if the Mobile Store is larger than the Standard space provided, generally twenty two (22) feet in length.
 - iii. The remaining portion of the second spot, not occupied by the Mobile Store, shall be blocked off utilizing safety cones.
 - iv. Shall provide proof of agreement with the Town to lease the premises

- v. Shall provide a copy of general liability policy naming the Town as additional insured in the amount of two million dollars (\$2,000,000.00).

[History: Adopted by Ord. 797, 10/23/19]

5.22.080 Suspension; Rescission.

- (a) *Applicability.* This Section applies only to suspension or rescission of an MSP.
- (b) *Suspension or Rescission.* A Permit issued under this Chapter may be suspended or rescinded by the Zoning Administrator after four or more violations of this Chapter, at their discretion, or for any one of the following additional causes:
 - 1. Fraud or misrepresentation in the course of operating
 - 2. Fraud or misrepresentation in the application for the permit;
 - 3. Operating in a manner that creates a public nuisance or constitutes a danger to the public.
- (c) Notice of the suspension or rescission of a permit issued under this Chapter shall be mailed, postage prepaid, to the holder of the permit at his or her last known address.
- (d) No person whose permit has been revoked pursuant to this chapter shall be issued a permit for a period of two (2) years from the date revocation becomes final.

[History: Adopted by Ord. 797, 10/23/19]

5.22.090 Appeals to City Manager.

- (a) *Applicability.* This Section applies only to appeals under an MSP.
- (b) *Appeal and deadline.* In the event that any applicant or permittee desires to appeal from any order, suspension, rescission, or other ruling of the Public Works Director or Zoning Administrator made under the provisions of this Chapter, such applicant or any other person aggrieved shall have the right to appeal such action or decision to the City Manager within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application.
- (c) *Filing.* An appeal shall be taken by filing with the Planning Department a written appeal statement setting forth the grounds for the appeal, along with the Town's appeal fee, which shall be established by City Council resolution.
- (d) *Stay.* The filing of the appeal shall stay the enforcement of any decision suspending or rescinding the permit.
- (e) *Hearing date.* The Planning Department shall transmit the written statement to the City Manager within ten (10) days of its filing and payment of the appeal fee, and the City Manager shall set a time and place for a hearing on appeal. A hearing shall be set not later than sixty (60) days from the date of filing of the applicant's written appeal statement with the Planning Department.

(f) *Notice.* Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of a notice of suspension or rescission at least five (5) days prior to the date set for the hearing.

(g) *Conduct.* At the hearing, the permittee and the Town shall be entitled to legal representation and may present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The City Manager shall not be bound by the traditional rules of evidence in a hearing, except that hearsay evidence may not be the sole basis for the decision of the City Manager. The City Manager may continue the hearing as deemed necessary. The decision of the City Manager, or his or her designee, on the appeal shall be final and binding on all parties concerned

[History: Adopted by Ord. 797, 10/23/19]