



**AGENDA
REGULAR MEETING
CITY COUNCIL OF THE TOWN OF COLMA
Wednesday, January 24, 2024
STATE OF THE CITY ADDRESS – 6:30 PM
REGULAR SESSION – 7:00 PM**

The City Council meeting will be held in person in the Council Chambers as detailed below. As a courtesy and technology permitting, the meeting will also be held virtually via Zoom Video Conference. However, the Town cannot guarantee that the public's access to the Zoom virtual platform will be uninterrupted, and technical difficulties may occur from time to time. In those instances, so long as the public may still attend the meeting in person, the meeting will continue.

To attend the meeting in person:

Town Hall, Council Chamber, 1198 El Camino Real, Colma CA 94014

To participate in the meeting via Zoom Video Conference:

Join Zoom Meeting:

<https://us02web.zoom.us/j/81289976261>

Passcode: 074407

Meeting ID: 812 8997 6261

Dial by your location:

+1 669 900 6833 US (San Jose)

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Germantown)

To provide Public Comment in person:

Members of the public wishing to speak are requested to complete a yellow speaker card and submit it to the City Clerk. Comments should be kept to three minutes or less.

To provide Public Comment via Zoom Video Conference:

Live verbal public comments may be made by requesting to speak using the "raise hand" feature in Zoom or, if calling in by phone, by pressing *9 on the telephone keypad prior to the consent calendar being heard, or prior to the close of the public comment period for agenda items or non-agenda items. In response, the Town will unmute the speaker and allow them to speak up to three minutes.

To provide Public Comment in writing:

Members of the public may provide written comments by email to the City Clerk at adometita@colma.ca.gov before the meeting. Emailed comments should include the specific agenda item on which you are commenting or note that your comment concerns an item that is not on the agenda. The length of the emailed comment should be commensurate with the three minutes customarily allowed for verbal comments, which is approximately 250-300 words.

As a reminder, the Town cannot guarantee that the public's access to the Zoom virtual platform will be uninterrupted, and technical difficulties may occur from time to time. Therefore, if you want to ensure you are able to attend the meeting and/or make public comment, you may wish to attend in person.

STATE OF THE CITY ADDRESS – 6:30 PM

PLEDGE OF ALLEGIANCE AND ROLL CALL – 7:00 PM

ADOPTION OF AGENDA

PRESENTATION

- Recognition honoring the retirement of Tri Counties Bank Branch Manager Sara Watson

PUBLIC COMMENTS

Comments on the Consent Calendar and Non-Agenda Items will be heard at this time. Comments on Agenda Items will be heard when the item is called.

CONSENT CALENDAR

1. Motion to Accept the Minutes from the January 10, 2024 Regular Meeting.

PUBLIC HEARING

2. EV CHARGING RATES

Consider: Motion to Adopt a Resolution Amending Colma Administrative Code Subchapter 1.10, Master Fee Schedule, to Establish an Electrical Vehicle Charging Rate for Town Owned and Operated Electrical Vehicle Chargers, Pursuant to CEQA Guideline 15273 and 15378.

3. ANIMAL CONTROL ORDINANCE AND FEES

- a. *Consider:* Motion to Conduct a Public Hearing and Adopt an Ordinance Amending Chapter 8 of the Colma Municipal Code Relating to Animals, to Adopt by Reference the Animal Control Ordinance of San Mateo County, Consisting of Chapter 6.04 of Title 6 of the Code of Ordinances of the County of San Mateo, California and to Make Other Clarifying Updates Pursuant to CEQA Guideline 15378 and 15061; and
- b. *Consider:* Motion to Adopt a Resolution Amending Colma Administrative Code Subchapter 1.10, Master Fee Schedule, to Update Various Animal Control Fees, Pursuant to CEQA Guideline 15378 and 15061.

4. ZONING CODE UPDATE

Consider: Motion to Introduce and Waive First Reading of an Ordinance Amending Subchapter 5.03 to Include and Remove Subchapters 5.05, 5.06, 5.12, 5.15, 5.19, and 5.20 of Chapter 5 (Planning, Zoning, Use & Development of Land & Improvements) of the Colma Municipal Code in Furtherance of the State Housing Element and Other State Law Changes, Pursuant to a Previously Certified Environmental Impact Report.

NEW BUSINESS

5. FY 2023-24 MID-YEAR FINANCIAL UPDATE & BUDGET AMENDMENT

- a. *Consider:* Motion Accepting the Fiscal Year 2023-24 Mid-Year Financial Report Through December 31, 2023; and
- b. *Consider:* Motion to Adopt a Resolution Appropriating Funds and Amending Budget for the Fiscal Year 2023-24 to Increase General Fund (11) Appropriation by \$140,000 Pursuant to CEQA Guideline 15378.

REPORTS

Mayor/City Council

City Manager

ADJOURNMENT

The City Council Meeting Agenda Packet and supporting documents are available for review on the Town's website www.colma.ca.gov or at Colma Town Hall, 1198 El Camino Real, Colma, CA. Persons interested in obtaining an agenda via e-mail should call 650-997-8300 or email a request to citymanager@colma.ca.gov.

Reasonable Accommodation

Upon request, this publication will be made available in appropriate alternative formats to persons with disabilities, as required by the Americans with Disabilities Act of 1990. Any person with a disability, who requires a modification or accommodation to view the agenda, should direct such a request to Pak Lin, ADA Coordinator, at 650-997-8300 or pak.lin@colma.ca.gov. Please allow two business days for your request to be processed.



**MINUTES
REGULAR MEETING**

City Council of the Town of Colma
Town Hall Council Chamber
1198 El Camino Real, Colma CA
Also Accessible via Zoom.us
**Wednesday, January 10, 2024
7:00 PM**

PLEDGE OF ALLEGIANCE AND ROLL CALL

Mayor Goodwin called the meeting to order at 7:00 p.m.

Council Present – Mayor John Irish Goodwin, Vice Mayor Ken Gonzalez, and Council Members Carrie Slaughter, Helen Fisicaro and Joanne F. del Rosario were all present.

Staff Present – City Manager Daniel Barros, City Attorney Christopher Diaz, Chief of Police John Munsey, Administrative Services Director Pak Lin, Director of Public Works and Planning Brad Donohue, Recreation Services Manager Angelika Abellana, Interim City Clerk Abigail Dometita, and Administrative Technician Shelby Wright were in attendance.

The Mayor announced, "Regarding Public Comment: Members of the public who are here in person are requested to complete a yellow speaker card and submit it to the City Clerk. Those of you on Zoom may make public comments by using the "raise hand" feature in Zoom or, if calling in by phone, by pressing *9 on the telephone keypad. The City Clerk will unmute your microphone and allow you to speak. Comments should be kept to three minutes or less."

ADOPTION OF THE AGENDA

Mayor Goodwin asked if there were any changes to the agenda. Mayor Goodwin requested to pull item #5; Vice Mayor Gonzalez requested to pull item #6; Council Member Fisicaro requested to pull item #3. The Mayor asked for a motion to adopt the agenda with the requested changes.

Action: Council Member Fisicaro moved to adopt the agenda with the requested changes; the motion was seconded by Council Member del Rosario and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor	✓				
Ken Gonzalez	✓				
Carrie Slaughter	✓				
Helen Fisicaro	✓				
Joanne F. del Rosario	✓				
	5	0			

PRESENTATIONS

- Administrative Services Director Pak Lin introduced new Accounting Technician Maria

Martinez.

- Chief of Police John Munsey presented certificates of appreciation to residents Liam and Seamus Falcon for contributing homeless kits to the department.
- Recreation Services Manager Angelika Abellana and Monica Devincenzi of Republic Services presented the award recipients of the Holiday House Decorating Contest:
 - Sterling Park Neighborhood – Fischer Family
 - Verano Neighborhood – Yoa Family
 - Villa Hoffman Townhomes –Manela Family
 - Overall Most Festive Home – Rivera Family
 - Most Festive Colma Business – Flowerland

PUBLIC COMMENTS

Mayor Goodwin opened the public comment period at 7:11 p.m.

- Resident and member of the San Mateo County Committee on Aging Liz Taylor invited the City Council to attend their next meeting regarding the Mission Road/Veterans Village bus stop.
- Executive Director of HIP Housing Kate Comfort Harr thanked the Town for its support of their programs and presented the City Council with calendars designed by children living in the county.
- Government Relations Associate Jackson Peterson introduced GovGPT which is an AI startup.

The Mayor closed the public comment period at 7:19 p.m.

CONSENT CALENDAR

1. Motion to Accept the Minutes from the December 12, 2023 Special Meeting.
2. Motion to Accept the Minutes from the December 13, 2023 Regular Meeting.
3. [Pulled from Consent Calendar]
4. Motion to Accept the 2023 Facility Parking Lot Upgrades and Repairs Project, (CIP #953), Including the Colma Police Facility, Colma Community and Historical Center, and Creekside Villas Parking Lots as Complete and Directing the Director of Public Works to File a Notice of Completion for the Project with the San Mateo County Recorder's Office Pursuant to CEQA Guideline 15301.
5. [Pulled from Consent Calendar]
6. [Pulled from Consent Calendar]
7. Motion to Introduce and Waive Further Reading of an Ordinance Amending Chapter 8 of the Colma Municipal Code Relating to Animals, to Adopt by Reference the Animal Control Ordinance of San Mateo County, Consisting of Chapter 6.04 of Title 6 of the Code of Ordinances of the County of San Mateo, California and to Make Other Clarifying Updates Pursuant to CEQA Guideline 15378 and 15301; and Set a Public Hearing for the Second Reading and Adoption of the Ordinance at the January 24, 2024 City Council Meeting.
8. Motion to Adopt a Resolution Approving and Authorizing the City Manager to Execute

Amendment No.1 to the Agreement with Mark Thomas & Company, Inc. in the Amount of \$165,500 for the El Camino Real Bicycle and Pedestrian Improvement Project, Project Study Report-Project Development Support (PSR-PDS) Phase Pursuant to CEQA Guideline 15306

Action: Council Member del Rosario moved to approve the consent calendar 1, 2, 4, 7 and 8; the motion was seconded by Council Member Fiscaro and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor	✓				
Ken Gonzalez	✓				
Carrie Slaughter	✓				
Helen Fiscaro	✓				
Joanne F. del Rosario	✓				
	5	0			

3. Motion to Approve Report of Checks Paid for December 2023.

Council Member Fiscaro asked a question. Administrative Services Director Pak Lin answered her question.

Action: Council Member Fiscaro moved to approve Report of Checks Paid for December 2023; the motion was seconded by Council Member Slaughter and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor	✓				
Ken Gonzalez	✓				
Carrie Slaughter	✓				
Helen Fiscaro	✓				
Joanne F. del Rosario	✓				
	5	0			

5. Motion to Accept Informational Report on Recreation Department Programs, Activities, Events, and Trips for the Fourth Quarter of 2023.

Mayor Goodwin asked several questions. Recreation Services Manager Angelika Abellana answered his questions.

Action: Mayor Goodwin moved to accept the Informational Report on Recreation Department Programs, Activities, Events, and Trips for the Fourth Quarter of 2023; the motion was seconded by Council Member Slaughter and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor	✓				
Ken Gonzalez	✓				
Carrie Slaughter	✓				
Helen Fiscaro	✓				
Joanne F. del Rosario	✓				
	5	0			

6. Motion to Adopt a Resolution Directing Town Staff to Fly Various Commemorative Flags in Lieu of the Town of Colma Flag at the Colma Community Center Pursuant to CEQA Guideline 15301 and 15378.

Vice Mayor Gonzalez suggested possibly amending the commemorative flag policy. Because the item agendized is for the approval of the flag schedule, City Attorney Chris Diaz recommended approving the item as is with direction to staff to agendize the flag policy in a future council meeting if requested by Council.

Action: Vice Mayor Gonzalez moved to Adopt a Resolution Directing Town Staff to Fly Various Commemorative Flags in Lieu of the Town of Colma Flag at the Colma Community Center Pursuant to CEQA Guideline 15301 and 15378; the motion was seconded by Council Member Slaughter and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor	✓				
Ken Gonzalez	✓				
Carrie Slaughter	✓				
Helen Fiscaro	✓				
Joanne F. del Rosario	✓				
	5	0			

PUBLIC HEARING

9. ADOPTION OF HOUSING ELEMENT 2023-2031

City Planner Farhad Mortazavi presented the staff report. The Mayor opened the public comment period at 7:50 p.m. Nels Delander of Carpenters Local 217 of San Mateo County made a comment. The Mayor closed the public comment period at 7:52 p.m. Council discussion followed.

Action: Council Member Fiscaro moved to adopt a Resolution Rescinding Resolution No 2023-04, Repealing the 2015-2022 Housing Element and Adopting the 2023-2031 Housing Element in Compliance with State Housing Element Law, and Amending Colma Administrative Code Subchapter 5.05 Related to the Housing Element Conditioned on State Certification, All Pursuant to a Previously Certified Environmental Impact Report; the motion was seconded by Council Member Slaughter and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor	✓				
Ken Gonzalez	✓				
Carrie Slaughter	✓				
Helen Fiscaro	✓				
Joanne F. del Rosario	✓				
	5	0			

COUNCIL CALENDARING

- The next Regular Meeting will be on Wednesday, January 24, 2024 at 7pm with the State of the City Address starting at 6:30pm.

REPORTS

City Manager Daniel Barros gave an update on the following topics:

- Home Depot parking lot structure is red-tagged and not permitted for entry. The Town is working with the property owner to find a permanent solution.
- Reminders to the public to be prepared for the wet weather with sandbags and checking their drains are not covered with debris.
- Centennial banners will start to appear around Town by next week.

ADJOURNMENT AND CLOSE IN MEMORY

Mayor Goodwin adjourned the meeting at 8:09 p.m. in memory of Stephen Tussey, resident of Veterans Village, Robert Brizuela, longtime resident in Broadmoor Village, Simone "Sam" Bonnano of South San Francisco and Officer Tuan Le of the Oakland Police Department.

Respectfully submitted,

Abigail Dometita
Interim City Clerk





STAFF REPORT

TO: Mayor and Members of the City Council
FROM: Brad Donohue, Director of Public Works
VIA: Daniel Barros, City Manager
MEETING DATE: January 24, 2024
SUBJECT: Amending Colma Administrative Code Subchapter 1.10 to Establish an Electrical Vehicle Charging Rate

RECOMMENDATION

Staff recommends that the City Council adopt the following:

RESOLUTION AMENDING COLMA ADMINISTRATIVE CODE SUBCHAPTER 1.10, MASTER FEE SCHEDULE, TO ESTABLISH AN ELECTRICAL VEHICLE CHARGING RATE FOR TOWN OWNED AND OPERATED ELECTRICAL VEHICLE CHARGERS, PURSUANT TO CEQA GUIDELINE 15273 AND 15378

EXECUTIVE SUMMARY

Staff recommends that the City Council adopt a resolution to amend the Town of Colma's Administrative Code Subchapter 1.01, the Town's Master Fee Schedule, to establish an electric vehicle (EV) charging rate for the Town owned electric vehicle (EV) charging station in the amount of \$0.38/KWh. Future rate adjustments for increases in electrical charging rates and potential increases in operation and maintenance (O&M) costs can be implemented once we have a formula that has been vetted through rate study and City Council approval in a public meeting.

FISCAL IMPACT

The majority of the cost to support the EV Charging Stations is the electrical costs. Staff is proposing at this time to pass on the electrical costs per kilowatt hour used. The first year would be a pass-through cost on electricity only. Other costs associated with operating and maintaining the EV Chargers have not been assessed. Staff is proposing over the next year, those O&M costs will be accumulated. Once the data is received, staff will then be able to adjust the EV charging rate to represent what it costs the Town to operate the EV Chargers. It is estimated that the Town's First year costs beyond the electrical costs are estimated to be in the range of \$700 to \$800.

BACKGROUND

The Town installed four (4) level 2 EV charging stations in the Colma Community Center parking Lot. This project, including all construction, software subscriptions and Wi-Fi connections, was completed in November of 2023. These are the first Town owned level 2 EV chargers. Because this is a new service that the Town is providing to the public, the Town does not have a track record of what these costs are on an annual basis. Until exact costs can be assembled for one year, staff is requesting that the Town set a rate that is based on its known costs to date, that would be the cost of electricity. The other costs such as annual software subscription costs, transaction processing fees and maintenance costs will be determined over the next year of use.

ANALYSIS

The first year of operating the EV chargers will enable staff to look at the various costs associated with the EV chargers. The only true cost known to date is the cost of electricity, based on the Community Center's electricity bill, the per kilowatt hour (KWh) is \$0.3845. Over the next year, staff will be able to calculate rate charges based upon:

- Length of each charging session, how many per day
- Annual KWh used
- Software subscription costs, its effect on the KWh used
- Processing charges (costs to process each transaction, this is performed by a third-party consultant).
- Annual operation and maintenance.

Currently staff would have to hypothesize what the use would be on the chargers thus either under or overestimating what the use would be and the adjusted per kilowatt hour charge would. If staff had to give a rough estimate of what that first annual cost would be, it would be in the range of \$700.00 to \$800.00 for costs association with operating the chargers annually.

After the first year, staff will adjust the per KWh charges to reflect the cost of providing electricity to the Colma Community Center EV Chargers.

Council Adopted Values

The proposed resolution to amend the Town of Colma's Master Fee Schedule to include Town Owned Electrical Vehicle Charging rates and establish an initial rate that is reflective of electricity charges only and using the next year to evaluate operation and maintenance costs to be assess in a future KWh rate, is being *responsible* and *fair* to the public.

Alternatives

The City Council can choose not to charge the public for EV Charging until all known costs are assumed. This is not recommended, even though staff does not know what the annual costs are regarding the charges. The one known cost is the electrical charges, which staff recommends be passed on to the consumer.

CONCLUSION

Staff recommends that the City Council adopt the resolution amending the Colma Administrative Code, Subchapter 1.10, the Town's Master Fee Schedule, to include an Electrical Vehicle charging rate set at a per Kilowatt Hour rate of \$0.38.

ATTACHMENTS

- A. Resolution



RESOLUTION NO. 2024-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA

**RESOLUTION AMENDING COLMA ADMINISTRATIVE CODE SUBCHAPTER
1.10, MASTER FEE SCHEDULE, TO ESTABLISH AN ELECTRICAL VEHICLE
CHARGING RATE FOR TOWN OWNED AND OPERATED ELECTRICAL VEHICLE
CHARGERS, PURSUANT TO CEQA GUIDELINE 15273 AND 15378**

The City Council of the Town of Colma hereby resolves:

ARTICLE 1. RECITALS

(a) The Town installed four (4) level 2 Electric Vehicle (EV) charging stations in the Colma Community Center parking Lot. This project, including all construction, software subscriptions and Wi-Fi connections, was completed in November of 2023.

(b) These are the first Town owned level 2 EV chargers. Because this is a new service that the Town is providing to the public, the Town does not have a track record of what these costs are on an annual basis. Until exact costs can be assembled for one year, staff is requesting that the Town set a rate that is based on its known costs to date, that would be the cost of electricity

(c) Staff recommends that the City Council adopt this resolution to amend the Town of Colma's Master Fee Schedule to establish an EV charging rate for the Town owned EV charging station in the amount of \$0.38/KWh.

(d) The City Council considered this proposed new fee and held a duly noticed public hearing on January 24, 2024, during which time all persons who wanted to provide input and comment on the increased fee were provided with an opportunity to do so.

(e) The City Council has reviewed the recommended fee, and all public comment provided, and finds that adoption of the new fee is in the best interests of the Town.

ARTICLE 2. INCORPORATION OF RECITALS

The City Council hereby finds that the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

ARTICLE 3. CAC SUBCHAPTER 1.10 AMENDED; NEW ELECTRICAL CHARGING FEE ESTABLISHED

The City Council hereby adopts a new electrical vehicle (EV) charging rate for the Town owned EV charging station in the amount of \$0.38/KWh and hereby amends the Town's Master Fee Schedule to include this new fee as follows:

1.10.1200	<i>Electrical Vehicle Charging Fee (EV Charging Fee)</i>	\$0.38/KWh
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ARTICLE 4. SEVERABILITY

Each of the provisions of this resolution is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this resolution is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

ARTICLE 5. CEQA

The City Council finds that adoption of this resolution is not a "project," as defined in the California Environmental Quality Act (CEQA) because deals with the setting of rates to meet operating expenses pursuant to CEQA Guideline 15273. It is also exempt pursuant to CEQA Guideline 15378 as a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

ARTICLE 6. EFFECTIVE DATE

This resolution shall take effect immediately upon adoption.

Certification of Adoption

I certify that the foregoing Resolution No. 2024-__ was duly adopted at a regular meeting of the City Council of the Town of Colma held on January 24, 2024, by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
John Irish Goodwin					
Ken Gonzalez					
Carrie Slaughter					
Helen Fisicaro					
Joanne del Rosario					
<i>Voting Tally</i>					

Dated _____

John Irish Goodwin, Mayor

Attest: _____
Abigail Dometita, Interim City Clerk



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Christopher J. Diaz, City Attorney
 VIA: Daniel Barros, City Manager
 MEETING DATE: January 24, 2024
 SUBJECT: Amendment to Colma Municipal Code, Chapter 8, Animals, to Adopt by Reference the San Mateo County Code; Amendment to Colma Administrative Code Subchapter 1.10, Master Fee Schedule

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and adopt the following:

ORDINANCE AMENDING CHAPTER 8 OF THE COLMA MUNICIPAL CODE RELATING TO ANIMALS, TO ADOPT BY REFERENCE THE ANIMAL CONTROL ORDINANCE OF SAN MATEO COUNTY, CONSISTING OF CHAPTER 6.04 OF TITLE 6 OF THE CODE OF ORDINANCES OF THE COUNTY OF SAN MATEO, CALIFORNIA AND TO MAKE OTHER CLARIFYING UPDATES PURSUANT TO CEQA GUIDELINE 15378 AND 15061

AND

RESOLUTION AMENDING COLMA ADMINISTRATIVE CODE SUBCHAPTER 1.10, MASTER FEE SCHEDULE, TO UPDATE VARIOUS ANIMAL CONTROL FEES, PURSUANT TO CEQA GUIDELINE 15378 AND 15061

EXECUTIVE SUMMARY

This item reflects an update to Chapter 8 of the Colma Municipal Code ("CMC") to adopt by reference the updated County Animal Control Ordinance, and to make other associated clarifying changes to Colma's animal control regulations. At the January 10, 2024 City Council meeting, the City Council introduced the ordinance and set a public hearing for the regular meeting of January 24, 2024 to adopt the County Code by reference. At the conclusion of the public hearing, the City Council will be asked to adopt the ordinance.

As part of the ordinance update, the City Council will also be asked to consider fee increases for various animal control fees. The County sets the fee amounts per costs associated with Animal

Control services. The Town is merely adopting the same fees set by the County that the Town must adopt pursuant to its contract with the County for Animal Control services.

FISCAL IMPACT

Costs for the City Council-approved County animal control services agreement are included as part of the Town's budgeting process. The fee amounts imposed for Animal Control services are cost recovery and will ensure the Town's costs for Animal Control services remains the same.

BACKGROUND

Animal Control has been one of the longest running regional/shared services in San Mateo County. Since 1952, the County has contracted with the Peninsula Humane Society & SPCA (PHS) for animal control field and sheltering service. All 20 cities in the county have in turn contracted with the County for these services. Historically, cities have taken advantage of the economies of pooling resources in order to realize lower costs for services than each city could likely achieve by providing its own services.

Previously, the City Council approved an agreement with the County for animal control services which is still currently active. This agreement is based on an expectation that each City/Town that is party to the agreement will adopt and maintain an animal control ordinance that is substantially the same as the provisions of Chapters 6.04, 6.12, and 6.16 of Title 6 of the San Mateo County Ordinance Code.

Similarly, the fee schedule adopted by the Town is required to be the same as outlined in Chapter 6.04.290 of the San Mateo County Ordinance. Licensing and other animal control fees are set and collected by the County, as a means of cost recovery for this mandated program. In addition to the collection of fees to fund the program, each cities/towns in the County is also billed a proportionate amount of the difference between the fee revenue and the cost of the program, based on each individual city's use of the animal control services. Staff has brought forth a resolution to adopt the Animal Control fees that will be considered for adoption as part of this agenda item.

State law requires a special procedure for an ordinance which adopts another ordinance by reference. For this reason, the City Council is required at introduction (first reading) to also set the date for a public hearing to be held at the same meeting as adoption. Notice of this public hearing must be published in the newspaper fourteen days before adoption. The proposed ordinance and a copy of the ordinance being adopted by reference, the county ordinance, must be available in the City Clerk's office for public review. The Town is complying with these requirements.

The repeal of Chapter 6.04 of the County Ordinance and adoption of a new amended code as it relates to animal control and licensing, including clarifications to existing code, renumbering, and a revised schedule of fees, is set for adoption by the County Board of Supervisors on January 9, 2024.

ANALYSIS

Chapter 6.04 of the San Mateo County Ordinance Code contains regulations regarding animal control in unincorporated San Mateo County. The animal control regulations are in place to protect the health and safety of County residents. The County's animal control ordinances were originally adopted on October 23, 1951 and last updated on October 17, 2006, with several updates over the years.

The Animal Control and Licensing Program Manager of San Mateo County Health informed each of the cities/towns within the County that a process would begin to revise and update the Animal Control Ordinance, and invited all to participate in the discussion and development process. From that open invitation, the County Program Manager worked with a committee of five city attorneys, representing Half Moon Bay, Pacifica, Millbrae, Redwood City, and South San Francisco, as well as the County Attorney's Office, and with ongoing input from the PHS, to develop a draft Animal Control Ordinance representative of all key stakeholders of San Mateo County animal control.

The committee of stakeholders identified opportunities to clarify existing language, remove repetitive language, and add substantive changes to the existing ordinances, with an emphasis on increasing efficiency in enforcement, clarifying language deemed confusing, and addressing deficiencies that had emerged after years of experience and enforcement under the current Chapter 6.04. The intent of the revised Chapter 6.04 is enhanced enforceability, streamlined processes, clarity in definitions based on real-world experience, and above all else, public safety.

As part of the development process, the Program Manager undertook a comprehensive study of other jurisdictions within California and in some circumstances sought feedback from those jurisdictions on how certain elements worked or did not work. The Program Manager carefully considered input from all relevant parties (including the Cities within the County) in order to draft a proposed Ordinance which reflects the interests of all stakeholders.

The following are the key provisions of the proposed ordinance updating Chapter 6.04:

- Updates existing definitions to improve enforcement capabilities and remove potential areas of confusion, particularly as relates to "Dangerous" and "Vicious" animal designations within the County.
- Lowers the rabies vaccination age requirement as consistent with current state law.
- Updates language and enforcement regarding "Vicious" animals. An animal designated as "Vicious" is, in many circumstances, to be humanely euthanized. The proposed code raises the threshold for when an animal may be declared "Vicious" (and thus is to be euthanized) as is consistent with current standards and practical enforcement. For offending animals deemed a significant danger to the public, a "Vicious" animal designation is still applicable.
- Updates language and enforcement regarding "Dangerous" animals. An animal designated as "Dangerous" is one which has exhibited behavior which indicates that

heightened safety requirements for the keeping of such animal are required to ensure public protection. The proposed revised Chapter 6.04 revises and clarifies the threshold for when an animal may be designated as "Dangerous." Currently, a Dangerous animal designation remains for the life of the animal; under the proposed revisions, an owner may apply for the designation to be lifted after a period of three (3) years if it has been safely maintained under the permit, removing the need for County oversight and enforcement. The Program Manager has found that most animals deemed "Dangerous" (about 90%) do not re-offend, and that the lifting of designations for animals deemed no longer a danger to the public is consistent with other jurisdictions, as well as state recommendations under the California Food and Agriculture Code.

- Removes language indicating that an animal owner may not maintain a "Dangerous" animal in a home with a juvenile person under the age of eighteen (18). The committee could not find any other jurisdiction that had this restriction in an ordinance and is not aware of any instance in which it had actually improved public safety or in which it was enforceable.
- Enable hearings regarding the designation of an animal as a "Dangerous" animal to proceed with or without the testimony of a victim, so long as sufficient evidence exists to support the designation. In many instances, an animal which may have otherwise been found to be "Dangerous" was not designated as such because a victim, or key witness, was unwilling or unable to attend a hearing.
- Clarify that certain acts or omissions by a victim or victim animal are not in itself sufficient to constitute "mitigating factors" in instances in which an offending animal should otherwise be declared as "Dangerous" or "Vicious." For example, the failure of an owner of a victim animal to have that animal on a leash shall not, in itself, constitute a mitigating factor in any attack to avoid a designation of the attacking animal as "Dangerous."
- Revise and update the fee schedule and further clarifies the offenses for which administrative citations may be issued for violations of the Chapter. The fee schedule was last updated in 2006 and the working group devised the recommended fees based upon comparative analysis of Bay Area agencies that provide similar services, appropriate allocation of resources and supplies in proportion to the service rendered and the animal size and if altered or unaltered, and to move closer to cost recovery (recommended fees do not represent full cost recovery). Overall, some fees are recommended to increase, stay the same or, in some cases, decrease. For example, board costs for small sized animals decreased, while board charges for altered dogs increased by \$5 and unaltered dogs by \$10 (unaltered pet fees remain higher than altered, as the overall goal is to encourage alteration and reduce pet overpopulation).

City Council Adopted Values

The adoption of the proposed updates to Chapter 8 of the CMC is consistent with the Council values of *responsibility* because it ensures the Town is consistent with County regulations and state law concerning animal control and associated permits, fees, and enforcement mechanisms.

Alternatives

The City Council could choose not to proceed with the ordinance or not to adopt the resolution updating the Town's Animal Control fees. Doing so is not recommended, however, as the Town's contractual arrangement with the County requires that our Animal Control regulations and fees match the County's regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This activity is not a project under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, section 15378, because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment. In the event the activity is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

CONCLUSION

Staff recommends the City Council conduct a public hearing, adopt the ordinance, and adopt the resolution amending the Town's Master Fee Schedule.

ATTACHMENTS

- A. Town Ordinance
- B. County Ordinance
- C. Resolution



ORDINANCE NO. ____
OF THE CITY COUNCIL OF THE TOWN OF COLMA

**ORDINANCE AMENDING CHAPTER 8 OF THE COLMA MUNICIPAL CODE
RELATING TO ANIMALS, TO ADOPT BY REFERENCE THE ANIMAL CONTROL
ORDINANCE OF SAN MATEO COUNTY, CONSISTING OF CHAPTER 6.04 OF
TITLE 6 OF THE CODE OF ORDINANCES OF THE COUNTY OF SAN MATEO,
CALIFORNIA AND TO MAKE OTHER CLARIFYING UPDATES PURSUANT TO
CEQA GUIDELINE 15378 AND 15301**

The City Council of the Town of Colma does ordain as follows:

ARTICLE 1. FINDINGS, PURPOSE AND AUTHORITY.

The City Council of the Town of Colma finds:

(a) The Town of Colma ("Town") presently contracts with the County of San Mateo ("County") to provide animal control services in the Town; and

(b) The Town's agreement for animal control services with the County requires the Town to adopt by reference the County's animal control ordinance and all amendments thereto; and

(c) The County has adopted an updated Animal Control Ordinance to clarify existing definitions, enact additional requirements for animal control, and revise the fees for animal control services; and

(d) The Town wishes to adopt the County's updated ordinance by reference, including the penalty provisions therein, as set forth in full below.

NOW, THEREFORE, the City Council of the Town of Colma does hereby ordain as follows:

ARTICLE 2. RECITALS INCORPORATED.

The above recitals are hereby adopted as findings of the City Council in enacting this Ordinance.

ARTICLE 3. CEQA.

The proposed Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

ARTICLE 4. SEVERABILITY.

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the Town of Colma hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

ARTICLE 5. EFFECTIVE DATE.

This Ordinance shall go into effect 30 days following its adoption.

ARTICLE 6. CMC CHAPTER 8 AMENDED AND RE-ADOPTED.

Chapter 8 of the Colma Municipal Code, Animals, is hereby amended and re-adopted to read in full as follows:

"CHAPTER EIGHT: ANIMALS

Subchapter 8.01: Animal Control

8.01.010 Adoption of San Mateo County Ordinance by Reference.

(a) Chapter 6.04 of Title 6 of the San Mateo County Code of Ordinances, entitled "Animal Control," and any amendments thereto, is hereby adopted by this reference and made part of the Colma Municipal Code and are, accordingly, made effective in this Town. Certified copies of Chapter 6.04 of Title 6, as adopted hereby, and any subsequent amendments, shall be deposited with the City Clerk, and shall be at all times maintained by the Clerk for use and examination by the public.

(b) In the event of any conflict between the provisions of Chapter 6.04 of the Code of Ordinances of the County of San Mateo, California, hereinafter referred to as "The San Mateo County Animal Control Ordinance," and the provisions of this Chapter, the provisions of this Chapter shall govern.

8.01.020 Three-Year Licensing for Dogs and Cats.

Notwithstanding section 6.04.040 of the San Mateo County Animal Control Ordinance, a three-year license may be obtained for a cat or dog (excluding wolf hybrids) by submitting to the Licensing Program adequate proof of a three-year rabies vaccination of the animal to be licensed and payment of the applicable fees as set forth in Colma's Master Fee Schedule.

8.01.030 Wolf Hybrid Registration.

An annual registration fee shall be paid for every wolf hybrid over the age of four (4) months owned or harbored in the Town of Colma. Said registration fee shall be first due when the animal reaches four (4) months of age or within sixty (60) days after the animal is acquired and due on the anniversary date of the original purchase date each year thereafter. All residents shall have sixty (60) days in which to register their wolf hybrid. Persons renewing their registration shall have thirty (30) days following their due date before being delinquent and having to pay a late

penalty. The registration fee shall be as set forth in the Master Fee Schedule. The registration fee for spayed or neutered wolf hybrids shall be less than said registration fee for unaltered wolf hybrids. At the time of registration, the wolf hybrid Owner must show proof that the animal has been given anti-rabies vaccination by a licensed veterinarian to be administered in the manner prescribed or approved by the State of California Department of Public Health.

8.01.040 Feeding Birds and Wild Animals Prohibited.

(a) It shall be unlawful for any person to feed or offer food to any bird or wild animal in or on any sidewalk, street, highway or public property of the Town of Colma.

(b) It shall be unlawful for any person to feed or offer to any bird or wild animal in or on any private property in the Town of Colma, except for the following:

(1) Unintentional feeding of any wild animal as a result of leaving food at an individual gravesite within a cemetery.

(2) Use of a bird or hummingbird feeders on detached single-family residentially developed properties. Feeders shall be in such numbers that feeding does not create an unreasonable disturbance that affects the rights of surrounding property owners or creates a nuisance, does not create an accumulation of droppings on the property or surrounding properties, and does not become an attractant for rodents or other wild animals. Feeders are required to be suspended off the ground by a chain or other method to prevent potential feeding of wild animals and rodents and shall be filled only with bird seed and feed.

8.01.050 Animal Waste.

(a) It is unlawful for the Owner or person having custody of any animal to fail to immediately remove and dispose of in a sanitary manner, by placing in a closed or sealed container and depositing in a trash receptacle, any feces deposited by such dog animal upon private or public property not owned or controlled by the Owner or person having custody of such dog animal.

(b) No person having the care, custody, charge or control of any animal shall permit or allow that animal on any public sidewalk, public park or on any other public property, or on any private property owned by someone other than the Owner or person who has custody or control of the animal, unless that person has, in his or her possession, an implement or device capable of removing any feces deposited by the animal.

(c) The provisions of this section shall not be applicable to:

(1) Any animal enrolled and participating in obedience classes or in any show for which the Town has issued a special event permit;

(2) Any guide dog while being used by a blind person; or

(3) Any domestic feline.

CHAPTER EIGHT: ANIMALS

Subchapter 8.02: Spaying, Neutering, and Breeding

8.02.010 Definitions.

For the purposes of this subchapter, the definitions set forth in section 6.04.010 of the San Mateo County Animal Control Ordinance shall apply.

8.02.020 Spaying/Neutering.

(a) Any person who owns or harbors within the Town of Colma, any cat or dog over the age of six months which has not been spayed or neutered, shall procure either a license to keep an unaltered dog or cat or a license and permit for breeding cats or dogs issued by the San Mateo County Animal Control Services under section 8.02.030 of this Chapter.

(b) A license shall be issued for an unaltered dog or cat if the Owner signs a written statement that such animal will not be allowed to breed unless the Owner has first obtained a breeding permit under section 8.02.030 of this Chapter.

(c) Any person providing care or sustenance for a period of thirty days or longer shall be deemed the Owner of such animal and shall adhere to the provisions of this Chapter.

(d) Subsection (c) above shall not be interpreted to apply to a person caring for barn cats or a colony of feral cats if such person:

(1) Registers (at no charge) with the Peninsula Humane Society or the San Mateo County Animal Control Services as a caretaker for barn cats or feral cats.

(2) Regularly feeds or arranges for the feeding of the cats, including on weekends and holidays;

(3) Traps or makes a reasonable effort to trap all barn or feral cats over the age of eight (8) weeks in his/her care, and has them spayed or neutered;

(4) Has all trapped cats tested for feline leukemia and has those who test positive humanely euthanized or isolated indoors;

(5) Identifies barn or feral cats that have been spayed or neutered by means of ear notching, ear tipping, or ear tagging;

(6) Has all trapped cats vaccinated according to state and local laws.

8.02.030 Breeding Permits; Administration.

(a) No person shall cause or allow any dog or cat owned or harbored, in the Town of Colma, to breed without first obtaining a breeding permit under this section.

(b) The San Mateo County Animal Control Services shall administer a permit program to allow breeding of cats and dogs consistent with criteria and according to procedures contained in this Chapter.

(c) Each applicant who is issued a permit to breed cats or dogs under this section shall pay a breeding permit fee according to the fee schedule contained in the San Mateo County Schedule of Fees and Charges, set forth in section 6.04.350 of the San Mateo County Animal Control Ordinance.

(d) No person shall cause or allow the breeding of a male or female dog or cat without first obtaining a breeding permit issued by the Animal Control Services. Such breeding permit is required in addition to any license required under Chapter 6.04 of Title 6 of the San Mateo County Code of Ordinances. Breeding permits shall be valid for twelve (12) months, renewable on an annual basis. All breeding permits shall contain the following terms and conditions and be subject to all of the following requirements:

(1) No offspring may be sold or adopted and permanently placed until reaching an age of at least eight (8) weeks.

(2) No offspring may be sold or adopted until immunized against common diseases, or until they have begun a course of disease prevention under the direction of a State of California licensed veterinarian.

(3) If within one year of placement a new Owner becomes unable or unwilling to continue ownership and responsibility for an animal, the permit holder shall assist in placement of the animal. If no suitable placement can be found within six (6) months, the permit holder shall accept return of the animal, if healthy and shall become fully responsible for its care.

(4) Any permit holder advertising to the public the availability of any animal for adoption or sale must prominently display the permit numbers in any publications in which they advertise. Further, the permit number must be provided to any person adopting or purchasing an animal bred by the permit holder.

(5) The breeding permit holder shall adhere to minimum standards regarding the care and keeping of animals developed and approved by the Animal Control Services.

8.02.040 Sale or Adoption of Cats, Dogs or Wolf Hybrids.

(a) Any person who provides or offers to the public, whether or not for compensation, any cat, dog, or wolf hybrid shall provide to their clients, free of charge, information relating to pet care and ownership, including information where applicable, on Town laws pertaining to animal control. This required information will be prepared and provided by San Mateo County Animal Control Services upon request.

(b) Any person offering cats, dogs, or wolf hybrids for sale or adoption shall disclose to any purchaser or adoptive Owner information regarding the licensing, registration or permit requirements of the Town of Colma applicable to such animal.

(c) No person shall offer for sale or adoption any cat, dog, or wolf hybrid on any public street, sidewalk or public park unless such person first obtains a business license to sell pets or is a recognized pet rescue/adoption agency such as Pets in Need and the Peninsula Humane Society.

(d) Prior to release for adoption, any animal adopted from any animal welfare agency shall be spayed or neutered as early as is medically appropriate, unless the adoptive Owner obtains a certificate from a licensed veterinarian certifying as to the health reasons for failing to alter such animal.

8.02.050 Revocation of Breeding Permit.

(a) Any permit issued pursuant to section 8.02.030 may be revoked if the Animal Control Officer has reasonable cause to believe any of the following to be true:

(1) The permittee has violated any Town or County ordinances relating to the keeping, care or use of any animal including, but not limited to, those contained in subchapters 8.01, 8.02 and 8.03 of the Colma Municipal Code;

(2) The permittee is in violation of any State health or safety law or regulation regarding animal care or control;

(3) The permittee has failed to comply with any condition or requirement of the permit or has failed to pay any fee imposed under this code;

(4) The permittee refused to allow inspection, upon forty-eight hours written notice, of any animal covered by the permit or the premises on which the animal is kept; or

(5) The permittee has transferred, sold or otherwise disposed of the animal for which the permit was issued.

(b) If, after inspection, the Animal Control Officer concludes that it is probable that one or more of the above grounds for revocation has occurred, it shall cause written notice thereof to be transmitted by mail to the address of the permittee. Said notice shall specify the grounds of possible revocation of the permit and shall specify a date and time for an informal hearing to be held before an Animal Control Officer. Said date shall be not less than five days subsequent to the date the notice is mailed. After the informal hearing, the Animal Control Officer may modify the terms of the permit or revoke the permit.

(c) The permittee may appeal the decision of the Animal Control Officer to the Town if the permittee gives written notice of such appeal within five working days of the decision.

8.02.060 Responsibility for Enforcement.

The Animal Control Program shall be responsible for the enforcement and administration of this subchapter.

CHAPTER EIGHT: ANIMALS

Subchapter 8.03: Animal Fanciers Permit

8.03.010 Definitions.

For the purposes of this subchapter, the definitions set forth in section 6.04.010 of the San Mateo County Animal Control Ordinance shall apply.

8.03.020 Animal Fancier Permit Program.

(a) No person may keep more than four dogs or cats, or dogs and cats, at any one location unless that person has first obtained an Animal Fanciers Permit in accordance with this subchapter.

(b) The County Division of Animal Control shall administer an Animal Fancier Permit program as described by this chapter to allow the keeping of dogs and/or cats up to a total of ten animals.

8.03.030 Application for Animal Fancier Permit.

Any application for an Animal Fancier Permit shall be made to the County Division of Animal Control on a form provided by the Division. The application shall include the name of the applicant, his or her residence address and telephone number, the address of the proposed location where the animals are to be kept if different from applicant's address, and a description of the housing facilities for the keeping of the animals. The application shall also state the number of dogs and/or cats to be kept and include a copy of the current license certificate issued pursuant to the San Mateo County Animal Control Ordinance for each animal to be kept. The Animal Control Program Manager may require the applicant to provide any other information he or she seems necessary to properly evaluate the application.

8.03.040 Issuance of Permit.

(a) An application for an Animal Fancier's Permit shall include a statement from the applicant that:

(1) Keeping of the animals at the proposed location will not violate any federal, state or local laws or regulations.

(2) Appropriate facilities of sufficient size exist at the proposed location to safely and adequately secure, feed, house, exercise and maintain the animals.

(3) The proposed location consists of a lot or lots of sufficient size to safely and adequately house, maintain and exercise the animals without disturbance to adjacent property owners or the public.

(4) Possession and maintenance of the animals at the proposed location will not result in the animals being subject to neglect, cruelty, or abuse.

(5) The applicant has neither had any animal license or permit revoked, nor has been convicted of any violation of any provision of subchapters 8.01, 8.02 and 8.03 of this code or any other state or local animal control law, within the past year.

(6) The keeping and maintenance of the animal will not create a public or private nuisance or endanger the public health, safety or welfare.

(7) The keeping of the animals at the proposed location complies with all Town zoning regulations.

(b) The Animal Control Program Manager may investigate or require any further information or documentation which would assist in determining whether the statements made by the applicant are correct and whether the permit should be issued.

8.03.050 Permit Conditions.

(a) Any permit issued under this chapter shall be made expressly subject to the following conditions:

(1) The permit holder shall provide veterinary care as needed and make every effort to keep all animals free of disease and parasites.

(2) The permit holder shall keep the animals' living quarters clean and sanitary.

(3) Any cages or structures housing animals shall be of a sufficient size to insure the health, safety and comfort of the animals and shall be placed at least three (3) feet from any lot line in residential areas.

(4) Any other conditions which the County Division of Animal Control determines is reasonably necessary to protect the welfare of the animals kept or the public, health, safety or welfare.

(b) The fancier permit fee established under the Fee Schedule set forth in section 6.04.350 of the San Mateo County Animal Control Ordinance shall be paid by the applicant prior to issuance of the permit. Such fee shall be paid each time a permit is issued or renewed.

8.03.060 Inspections.

(a) The Animal Control Program Manager may require any permit holder to produce for inspection any required animal license, permit or certificate of vaccination.

(b) The Animal Control Program Manager may, with 48 hours' notice to the permit holder, conduct such inspections of the premises upon which animals are kept under a fancier's permit, as necessary to insure compliance with the conditions of the permit.

(c) Such inspection of the premises shall be based on the direct observations of an Animal Control Officer or upon a non-anonymous complaint.

8.03.070 Expiration and Renewal of Permits.

(a) Permits issued under this chapter shall expire one year after issuance.

(b) Permits may be renewed on an annual basis upon filing of a new application containing updated information and payment of the annual Fancier's Permit fee established under the Fee Schedule set forth in section 6.04.350 of the San Mateo County Animal Control Ordinance.

(c) No permit shall be renewed if the Animal Control Program Manager has received two (2) or more substantiated complaints concerning the location or manner of keeping of the animals or if the Animal Control Program Manager has determined that the findings set forth in section 8.03.040 cannot be made or that any of the grounds for revocation described by section 8.03.080 exist.

8.03.080 Permit Revocation.

(a) Any permit issued under this chapter may be revoked by the Animal Control Program Manager if, after investigation, the Animal Control Program Manager finds reasonable cause to believe any of the following grounds exist:

(1) The permittee has violated any animal control laws or regulations, any zoning or health and safety laws or any regulations relating to the keeping of animals;

(2) The permittee has failed to keep and maintain in a clean and sanitary condition the premises on which the animals are kept;

(3) The permittee has acted in an inhumane or cruel manner in the treatment of the animals;

(4) The permittee has failed to provide any animal with proper food, water, exercise, shelter or veterinary care;

(5) The permittee has failed to comply with all conditions of the permit;

(6) The permittee has failed to pay any fee or obtain any license imposed under this chapter 8; or

(7) The permittee has provided false information in the permit application or has failed to cooperate in allowing inspection of the premises by the Animal Control Program Manager.

8.03.090 Appeal of Revocation of Permit.

(a) Prior to revocation of a permit, the Animal Control Program Manager shall provide written notice to the permittee of its intention to revoke the permit. Such notice shall contain a statement of the grounds supporting permit revocation and shall advise the permittee that the permit will be revoked unless a hearing before the Director of the Health System or his/her designee is requested in writing to the Animal Control Program Manager within ten (10) days of the mailing of the notice. Any request for a hearing must specify the reasons the license should not be revoked and why the grounds cited in the notice do not exist.

(b) Upon receipt of a request for hearing, the Animal Control Program Manager shall schedule a hearing before the Director of the Health System or his/her designee and shall provide the permittee with reasonable written notice of the date, time and place of the hearing.

(c) At the hearing, the petitioner and the Animal Control Program Manager may be represented by counsel, present oral and written evidence and cross-examine witnesses. The strict rules of evidence need not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. In this regard, written statements, records or reports by a state or county officer or employee, or any law enforcement or fire protection officer or employee, or the Animal Control Program or its agents, acting in the course and scope of their official duties, or written statements by any person made under penalty of perjury, may be admitted as evidence that the facts or conditions expressed therein do or do not exist.

(d) After the hearing, the hearing officer may revoke the permit or may impose additional conditions in order to allow continuation of the permit if he or she finds that substantial evidence supports the decision by the Animal Control Program Manager to revoke the permit. Alternatively, the hearing officer may determine that the permit should not be revoked.

(e) After a permit is revoked, the Animal Control Program Manager shall allow the permit holder reasonable time, not to exceed 90 days, to relocate those cats and dogs which may not be kept without an Animal Fancier Permit: except that if the cause of revocation involves health or safety concerns or violations or animal neglect or cruelty the Animal Control Program Manager may immediately impound all of the animals.

8.03.100 New Application After Denial or Revocation.

If a license has been denied or revoked, the Animal Control Program Manager shall not accept a new application by the same person or member of the person's household less than twelve (12) months after such denial or revocation unless the applicant shows and Animal Control Program Manager determines that the grounds upon which the first license or application was denied or revoked no longer exist. Upon revocation, no part of the permit fee shall be refunded.

8.03.110 Administrative Guidelines.

The Animal Control Program Manager may formulate administrative guidelines in conformity with, and for the purpose of implementing, this chapter.

8.03.120 Mediation.

Upon receipt of a nuisance complaint regarding the holder of an Animal Fancier Permit, the Animal Control Program Manager ("Manager") may require the complainant(s) to mediate with the Animal Fancier permit holder as a precondition of investigation, citation and abatement of the nuisance. Such cases may be referred to the County Mediation Program. If the Manager determines mediation is appropriate and the complainants agree to mediate but the alleged violator refuses, the Manager may proceed with investigation and any appropriate enforcement.

8.03.130 Responsibility for Enforcement.

The Animal Control Program shall be responsible for the enforcement and administration of this subchapter.

CHAPTER EIGHT: ANIMALS

Subchapter 8.04: Regulating Livestock Animals

8.04.010 Definitions.

For the purposes of this subchapter, the definitions set forth in section 6.04.010 of the San Mateo County Animal Control Ordinance shall apply.

8.04.020 Prohibition.

(a) Except as expressly provided herein, no person shall keep, maintain or operate any premises in the Town of Colma for the purpose of maintaining, keeping or feeding hogs, pigs or swine, cattle, horses, goats, sheep, mules or any other livestock.

(b) Nothing contained herein shall prohibit a governmental organization from making temporary use of goats for one (1) week out of a calendar year solely for the purposes of weed abatement. Such use shall immediately cease if the City Manager or his or her designee determines the public health, safety or welfare is at risk.

8.04.030 Public Nuisance.

The keeping, maintaining or feeding of hogs, pigs or swine, cattle, horses, goats, sheep, mules or any other livestock contrary to the provisions or requirements of this ordinance is declared a public nuisance.

8.04.040 Non-Profit Organizations.

Notwithstanding the other provisions of this subchapter, the City Council is empowered to grant permits authorizing non-profit organizations to maintain, keep or feed swine, cattle, horses and livestock. Such a permit shall be granted in compliance with the following requirements:

(a) Application for such permit shall be made in writing to the City Council on a form provided by the City Clerk;

(b) The applicant shall be a non-profit organization;

(c) The primary purpose and effect of the project shall be for the education of the individuals participating in the project. The education shall be in such areas as animal care and husbandry;

(d) The project shall be kept and maintained in compliance with proper health and sanitation standards and shall be subject to periodic inspection by the City Health Officer;

(e) The project shall not be kept and maintained as to constitute a public nuisance as that term is defined in California Civil Code section 3479.

8.04.050 Revocation.

Upon request of the City Health Officer, or upon written application submitted by a resident or property owner of the Town of Colma, the Council shall notice a public hearing to determine whether the permit shall be revoked. The Council shall revoke the permit if it determines that the preponderance of the evidence at the hearing establishes that any of the requirements of the permit have not been complied with.

CHAPTER EIGHT: ANIMALS

Subchapter 8.05: Poultry and Fowl

8.05.010 Definitions.

For the purposes of this subchapter, the definitions set forth in section 6.04.010 of the San Mateo County Animal Control Ordinance shall apply.

8.05.020 Findings.

The City Council finds that noise and smell from poultry or fowl, including chickens, ducks, turkeys, geese, squabs, pigeons or partridges, can become a nuisance to surrounding property owners, unless such poultry or fowl are kept and confined within an enclosure that is at least 125 feet, and for roosters 500 feet, from a dwelling unit.

8.05.030 Prohibition.

No person, firm or corporation shall keep, or allow to be kept, on any property within the Town of Colma any poultry or fowl, including chickens, ducks, turkeys, geese, squabs, pigeons or partridges which can become a nuisance to surrounding property owners, unless such poultry or fowl shall at all times be kept and confined within a yard, pen, corral, bird or chicken house, or other enclosure so constructed as to make impossible escape therefrom by said poultry, which said yard, pen, corral, chicken house, or other enclosure shall be so placed that no part thereof shall be within a distance of 125 feet from any house used or designed to be used for dwelling or residential purposes, and not owned, leased or otherwise controlled by such person, provided that crowing roosters of three (3) months of age or more shall be housed or kept within a distance of five hundred (500) feet from any house used or designed to be used for dwelling or residential purposes, and not owned, leased or otherwise controlled by the owners of said poultry.

8.05.040 Public Nuisance.

The keeping, maintaining or feeding of poultry or fowl contrary to the provisions or requirements of this ordinance is declared a public nuisance.

8.05.050 Lawful, Nonconforming Use

(a) Notwithstanding the foregoing, any lawful use of the premises within the Town of Colma for the keeping or maintenance of poultry or fowl which began on or before January 1, 1988

and has continued to the date of this ordinance may continue provided that a permit meeting the following requirements is first obtained:

(1) Application for such permit shall be made in writing to the City Planner who must issue the permit if all conditions herein have been satisfied;

(2) The project shall be kept and maintained in compliance with proper health and sanitation standards and shall be subject to periodic inspection by the City Health Officer or the City Code Enforcement Officer;

(3) The premises shall not be kept and maintained so as to constitute a public nuisance as that term is defined in California Civil Code Section 3479.

8.05.060 Revocation.

Upon request of the City Health Officer, or upon written application submitted by a resident or property owner of the Town of Colma, the Council shall notice a public hearing to determine whether the permit shall be revoked. The Council shall revoke the permit if it determines, by a preponderance of the evidence that any of the requirements of the permit have not been complied with.

CHAPTER EIGHT: ANIMALS

Subchapter 8.06: Regulation of Pigeons

8.06.010 Definitions.

(a) For the purposes of this subchapter, the definitions set forth in section 6.04.010 of the San Mateo County Animal Control Ordinance shall apply.

(b) In addition, as used in this subchapter, the following words shall have the meaning shown:

(1) "Loft" means any house, dovecote, structure or enclosure for the keeping or housing of pigeons.

(2) "Pigeon" means a bird of the order Columbidae and includes racing pigeon, carrier pigeon, homing pigeon, fancy pigeon and sporting pigeon.

8.06.020 Purposes.

(a) The purposes of this ordinance are to preserve the health and safety of the people by regulating carrier, homing and racing pigeons in single-family residential zones, and to control and abate nuisance activities arising out of the keeping, maintaining, or releasing of pigeons.

(b) The City Council intends that provisions of this ordinance shall take force and effect as provided herein despite any claims of grandfathered rights under traditional zoning laws.

(c) This ordinance is adopted under the Town's general police power to protect the public health and safety and is intended to be consistent with Government Code section 65852.6.

8.06.030 Findings.

(a) The City Council finds that regulation of pigeons is necessary to protect the public health and safety of City residents and visitors, as evidenced by the following facts.

(1) In the recent past, staff received statements describing the presence of a large number of pigeons in the Sterling Park neighborhood, the proliferation of mites in the vicinity of the property and damage by pigeons to nearby fruit trees. On investigation, staff has observed a significant amount of pigeon manure on otherwise clean vehicles and roofs and windows of residences that are located near to pigeon lofts.

(2) It is common knowledge that pigeons drop feces below areas where they roost and fly. Bacteria and fungi is transmitted from the droppings and respiratory secretions of infected pigeons to humans, leading to infection which in turn can cause liver damage, kidney damage or even meningitis.

(3) It is also common knowledge that pigeons consume fruits, grains and vegetation, especially in areas near their nests and attract mites and pests to their locations.

(4) Bacteria are spread from an infected bird in its droppings and respiratory secretions (i.e. sneezing and coughing). The bacterium which homing pigeons (if infected) can spread is called Chlamydiosis. Chlamydiosis, also known as Psittacosis, can be transmitted to humans. In people, the disease causes flu-like symptoms of fever, chills and headache. If left untreated, Psittacosis can cause liver and kidney damage or even meningitis. (This Chlamydia is not the same infectious agent that is spread among humans as a sexually transmitted disease.)

(5) Cryptococcus is another fungus infection. Though uncommon in pet birds, infection can cause diarrhea, paralysis, nervous-system signs and masses with a gelatinous consistency. Humans can contract this disease when they inhale the dust from dried droppings (most commonly from pigeons). Infection in people can be quite serious leading to meningitis, encephalitis (brain inflammation) or respiratory symptoms.

(6) Dryness, cleanliness and proper sanitation in pigeon lofts are essential to the health of pigeons and necessary to prevent the spread of disease. This ordinance adopts standards and conditions for maintaining pigeon lofts to prevent the spread of disease.

(7) Disease can also be spread by allowing pigeons to stay outside of their loft for extended periods of time or to perch on neighboring yards, houses and cars. Pigeons can be trained to not land anywhere except on the landing board of the pigeon owner's loft, from staying out all day, from perching on neighbor's yards, houses and cars, and to return to their loft promptly after release. The risk of disease and nuisance is minimized when pigeons are trained in this manner. This ordinance mandates permit conditions requiring the permittee to train pigeons to behave in a manner that will minimize or prevent the spread of disease. These requirements are based on techniques for training pigeons recommended by the American Racing

Pigeon Union, Inc. and are based on the concept that it is a pigeon's love of home, need for food, and fear of the unknown that brings it back to its loft.

(8) Prior to the introduction of this ordinance, staff inspected certain areas near an existing pigeon loft that reportedly contains 50 pigeons. Staff found, on an average day, 30 incidents of pigeon droppings within 75 feet of the loft and an additional average of 20 incidents of pigeon droppings between 75 and 110 feet from the loft. There were higher concentrations of droppings on rooftops and perch areas within 100 feet of the loft. Thus, residences and personal property commonly stored outdoors, such as vehicles and patio furniture, within 100 feet of a pigeon loft are more likely to be affected by the nuisance caused by the consistent presence of pigeon droppings.

(9) Based on the evidence, a setback requirement of up to 100 feet from the pigeon loft to the nearest dwelling unit would be warranted. However, this would result in a complete ban on all pigeon lofts in the residential areas in Town. With the adoption of requirements that pigeons be trained to return to their lofts without perching in the surrounding areas, a less restrictive setback requirement of ten feet is established in this ordinance.

(10) Another health concern is that rodents and other animals are attracted to properties where pigeon food is left out or improperly stored. These rodents will leave feces in areas visited and will carry diseases. For this reasons, this ordinance adopts standards to prevent rodents and other animals from feeding or residing on or about pigeon lofts.

(11) Because of the health and sanitation risks associated with keeping or maintaining pigeons, many of the provisions of this ordinance shall take force and effect on the dates provided herein despite any claims of grandfathered rights under traditional zoning laws. In order to allow persons who were keeping pigeons a reasonable notice and opportunity to comply with certain provisions herein, the provision requiring a permit took effect approximately 60 days after original passage of this ordinance and the provision requiring a reduction in the number of pigeons took effect approximately one year after passage of this ordinance.

(12) Finally, feeding of wild animals and birds on public property causes a public nuisance by attracting wild animals and birds which drop feces in the areas where they are fed, which must be cleaned by city crews, at taxpayers' expense.

8.06.040 Prohibitions

(a) It shall be unlawful for any person to keep or maintain a pigeon anywhere in the Town, except as provided in this ordinance.

(b) No person shall keep or maintain more than fifty (50) pigeons in any zone other than the G zone.

(c) It shall be unlawful for any person to construct, keep or maintain a pigeon loft unless the pigeon loft meets the requirements of an Accessory Building under sections 5.03.070 and 5.03.080 of this Code, is constructed in accordance with the Uniform Building Code, and the City Council has issued a Permit to such person to keep and maintain pigeons, as provided in this ordinance.

(d) It shall be unlawful to release a pigeon in a residential zone unless a permit in writing, authorizing the keeping of pigeons in a residential zone was first applied for and obtained from the City Planner.

8.06.050 Pigeon Permit for Keeping Pigeons

(a) Every application for a permit to keep and maintain pigeons shall be made upon forms to be furnished for that purpose by the Planning Department, signed by the applicant and filed with the Planning Department. No such application shall be received for filing by the Planning Department unless accompanied by a filing fee set forth in the Master Fee Schedule.

(b) Any person keeping or maintaining more than two pigeons anywhere in Town must obtain a permit in writing from the City Planner.

(c) The City Council shall deny the granting of a pigeon permit unless it finds that all criteria set forth in this ordinance have been met and that such use is not detrimental to the health, safety and welfare of the applicants and adjoining residents and property owners.

(d) Nothing herein shall authorize the issuing of a permit to keep or maintain pigeons for market or commercial purposes in a residential zone or in violation of any other ordinance of the Town of Colma.

(e) A permit to keep pigeons shall be conditioned upon each of the following:

(1) That the permittee maintain a pigeon loft in accordance with the requirements of this ordinance;

(2) That all pigeons shall be banded and registered with one of the national pigeon associations or registries, that the permittee shall maintain a list of all pigeons in the permittee's possession and shall make the list available upon request by the Code Enforcement Officer or designee;

(3) That the permittee train each pigeon to fly with a flock within two weeks after the first time that pigeon is let out of the loft;

(4) That the permittee train each pigeon not to land anywhere except on the landing board of the loft within four weeks after the pigeon is first let out of the loft;

(5) That the permittee not release a pigeon from the loft except during the period beginning two hours before sunset and ending at sunset unless the pigeon has been trained to fly with the flock and not to land anywhere except on the landing board of the loft;

(6) That the permittee not release a pigeon from the loft, whether for exercise, training, competition, or other reason, until at least four hours after the pigeon has been fed;

(7) That the permittee shall be required to keep such records as may be required by the City Planner to establish compliance with each of the conditions of the permit; and

(8) That the permittee shall allow the Code Enforcement Officer to enter and inspect the permittee's property or loft at any reasonable time for the purpose of investigating

either an actual or suspected violation of this ordinance or to ascertain compliance or noncompliance with this ordinance.

(f) The City Council may impose other conditions on the granting of a permit as are reasonable and necessary to carry out the purposes of this ordinance.

(g) A Pigeon Permit shall not be approved for any applicant, nor shall a Pigeon Permit be approved at a location if there is an action pending as provided in either (1) or (2) listed below against the property owner, tenant or lessee of the property. Further, an approved Pigeon Permit shall be revoked for an applicant or location for either of (1) or (2) listed below.

(1) Any combination of two or more outstanding citations of the Town of Colma Municipal Code, or adjudicated citations found in favor of the Town of Colma by a court of competent jurisdiction, issued within the twelve months preceding the date of the Pigeon Permit application and directly or indirectly related to, or similar to, any property, event, activity or use for which the Pigeon Permit application is proposed; or,

(2) The individual listed as the applicant on the Pigeon Permit application has, or where the property owner, a tenant or lessee, of the property listed on the Pigeon Permit application as the intended site of the raising, housing or handling of homing, carrier or racing pigeons, has a Municipal Code violation(s) being processed by the Town of Colma or pending before a court of competent jurisdiction and directly or indirectly related to, or similar to, any property, event, activity or use for which the Pigeon Permit application is proposed.

8.06.060 Pigeon Lofts; Sanitation Standards

(a) Each person keeping or maintaining pigeons in the Town of Colma shall maintain a pigeon loft in a dry, clean and sanitary condition at all times, shall scrape and clean the pigeon loft and remove food scraps not less than two times each week, and shall dispose of all food scraps in a sanitary manner. Specifically, but without limitation:

(1) All pigeons shall be fed within the confines of the loft;

(2) Droppings should be removed from all surfaces of the loft at least twice a week;

(3) Before cleaning, all food, grit and water containers must be removed from the loft to prevent possible contamination; and

(4) Waste material shall be disposed of in accordance with the provisions of Subchapter Four of Chapter Three of the Colma Municipal Code.

(b) Pigeon lofts shall be constructed and maintained in accordance with the following standards:

(1) The loft must keep out mice, rats, opossums, raccoons, weasels, snakes, cats, dogs, and other wild birds;

(2) There must be a minimum of eight cubic feet of air space and one square foot of area per bird in the loft;

(3) There must be at least three major sections, one for breeders, one for young birds and one for old birds, with a landing board large enough for all pigeons to land on it at one time;

(4) The loft must be designed and maintained so that a pigeon may not exit from the loft without being released by a person;

(5) The ceiling of the loft must be tall enough to allow a person to enter the loft to clean it;

(6) The loft must be elevated at least 18 inches from the ground with open area underneath to prevent rodents from taking up residence under the floor;

(7) The loft must allow free circulation of air throughout and lots of sunshine to all areas; and

(8) The loft must be at least ten feet from the side and back yard property boundaries.

8.06.070 Appeals.

A person aggrieved by a decision of the City Planner with respect to this subchapter may appeal the decision to the City Council. The appeal shall be heard in accordance with the procedures set forth in section 1.02.120 of the Colma Municipal Code. The City Council may affirm, overrule, or modify the decision of the City Planner.

8.06.080 Diseased Pigeons: Notice to San Mateo County Health Department.

Whenever any pigeon shall appear to have any communicable disease, the San Mateo County Health Department shall be notified immediately of such condition with such information as may be necessary and such pigeon shall be immediately isolated from healthy pigeons. No diseased pigeons shall be sold or given away, nor shall they be otherwise disposed of except in the manner authorized by the Health Officer. A Health Officer may seize or impound a pigeon based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health and safety of others. Any such seizure or impoundment shall be consistent with the requirements stated in Penal Code sections 597.1, 597f, 599d, and 599e.

CHAPTER EIGHT: ANIMALS

Subchapter 8.07: Violations and Penalties

8.07.010 Penalties; Continuing Violation.

(a) A violation of any provisions contained in this Chapter 8 is hereby declared an infraction except for a violation of any provision of Section 6.04.050, subsection (a) of Section 6.04.090, or subsection (a) of Section 6.04.130 of the San Mateo County Animal Control Ordinance, a violation of which is hereby declared a misdemeanor.

(b) Every day any violation of any provision of this Chapter 8 continues shall constitute a separate offense.

(c) This section shall not limit any other available criminal, civil or administrative remedies. Any or all applicable remedies shall remain available for violation of the provisions of this Chapter 8.

8.07.020 Amount of Administrative Fines for Violations.

(a) Any person issued an administrative citation for a violation of this Title 6 or the San Mateo County Animal Control Ordinance shall be assessed and pay a fine as follows:

(1) One hundred dollars (\$100) for a first citation.

(2) Two hundred dollars (\$200) for a second citation for the same violation within a one-year period.

(3) Five hundred (\$500) for each additional citation for the same violation within a one-year period.

8.07.030 Violations a Public Nuisance; Remedies Cumulative.

Violations of this Chapter 8 or of the San Mateo County Animal Control Ordinance are hereby declared a public nuisance subject to any and all applicable civil, administrative, and criminal remedies, according to the provisions and procedures set forth in this Municipal Code and other applicable state and local law."

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Certification of Adoption

I certify that the foregoing Ordinance No. **XX** was duly introduced at a regular meeting of the City Council of the Town of Colma held on January 10, 2024, and adopted at a regular meeting of the City Council of the Town of Colma held on January 24, 2024, by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor					
Joanne F. del Rosario					
Ken Gonzalez					
Carrie Slaughter					
Helen Fisicaro					
<i>Voting Tally</i>					

Dated: _____

John Irish Goodwin, Mayor

Attest: _____
Abigail Dometita, Interim City Clerk

**ORDINANCE NO. _____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA**

* * * * *

AN ORDINANCE REPEALING AND REPLACING CHAPTER 6.04 (ANIMAL CONTROL) OF TITLE 6 OF THE SAN MATEO COUNTY ORDINANCE CODE TO CLARIFY EXISTING DEFINITIONS, ENACT ADDITIONAL REQUIREMENTS FOR ANIMAL CONTROL, REVISE ANIMAL CONTROL SERVICE FEES

The Board of Supervisors of the County of San Mateo, State of California,

ORDAINS as follows:

SECTION 1. Chapter 6.04 of the San Mateo County Ordinance Code is hereby repealed, and a new Chapter 6.04 is hereby adopted, to be entitled and numbered and to read as follows:

CHAPTER 6.04 ANIMAL CONTROL

6.04.010 – Definitions

The following words and phrases, when used in this Chapter shall have the meaning set forth below:

"Animal Control Officer" – any person designated as the Animal Control Program Manager for the County, as well as the head of the County’s animal control contractor and their duly authorized officers or deputies. In the event the County has no animal control contractor to provide animal control officers, or in cases of emergency in which additional animal control officers are needed, “animal control officer(s)” may include persons so designated by the Animal Control Manager.

"Animal Control Program" – that program established by the County and participating cities, and the Program’s animal control contractor(s), if any, which contractor is specifically charged with regulating and enforcing laws dealing with animal control within the participating jurisdictions. Animal Control Program includes the Licensing Program.

"Animal Control Program Manager" - that person employed by the County to oversee the Animal Control Program or designee.

"Animal Control Shelter" - A San Mateo County facility operated by the County, or by another public entity, an accredited, tax-exempt humane non-profit organization contracted with the County, or a for-profit business contracted with the County for the

purpose of impounding, sheltering, adopting, or euthanizing seized, stray, distressed, homeless, abandoned, or unwanted animals.

“Caretaker” - any person 18 years of age, or older, who has assumed responsibility for the care, custody, or control of an animal(s).

"Dangerous Animal" - any animal, except a trained animal assisting a peace officer engaged in law enforcement duties, that constitutes a danger to persons or animals, and/or demonstrates any of the following behavior(s):

- (a) behavior that results in bodily harm that is less serious than a “Severe Injury”, or
constitutes a substantial threat of bodily harm to a person; or
- (b) an attack on another animal which results in an injury that is sufficient to require veterinary care even if not received.

An animal which has been declared by an out of county jurisdiction as "potentially dangerous," "dangerous," "vicious," or any other similar designation, may be deemed a Dangerous or Vicious animal for the purposes of this Chapter, as determined by an Animal Control Officer.

“Health Officer” - that person so designated by the County of San Mateo.

“Humane Officer” - any person who is qualified and appointed pursuant to California Corporations Code Section 14502, and who is an employee of the County and designated as such by the County or an employee of a society for prevention of cruelty to animals or humane society that has contracted with the County to provide animal control services.

"Licensing Program" - that program within San Mateo County Health, including but not limited to, any County contractor specifically charged with regulating and selling animal licenses in the County of San Mateo.

“Owner” - any person 18 years of age or older who:

- (a) holds the license to the animal; or
- (b) if the animal is not licensed, is legally entitled to possession of the animal;
or
- (c) has exercised primary responsibility for the care of the animal for thirty (30) or more consecutive calendar days.

“Person” – means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust,

estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.

“Severe injury” - Any physical injury to a human caused by an animal attack that involves tooth derived muscle tears, disfiguring wounds or laceration(s), multiple bites requiring sutures, broken bones and/or requires corrective surgery.

“Service Animal” - any animal defined as such by federal or state law.

"Vicious Animal" - any animal, except a trained animal assisting a peace officer engaged in law enforcement duties, which meets any or all of the following criteria:

- (a) Any animal that, at the time of the attack, is already designated as a Dangerous Animal and/or is the subject of a Dangerous Animal Permit, and which is found to have engaged in any of the following:
 - (1) behavior that results in bodily harm, or constitutes a substantial threat of bodily harm, to a person; or
 - (2) an attack on another animal which results in an injury that is sufficient to require veterinary care, whether or not received.
- (b) Any animal that inflicts Severe Injury to or kills a person.
- (c) Any animal which cannot be safely maintained with a Dangerous Animal permit.
- (d) Any animal designated by another governmental jurisdiction as, “dangerous”, "vicious", or any other similar designation, if that prior designation is based on behavior which would meet the definition of Vicious under this Chapter, as determined by an Animal Control Officer.

6.04.020 - Animal Control Program.

- (a) The Animal Control Program is responsible for the enforcement of this Chapter.

The duties of the Animal Control Program shall include, but not be limited to, the following:

- (1) Provide animal control, sheltering services, and a rabies control program to carry out and enforce all provisions of this Chapter and California Health & Safety Code section 121690, and keep such records as may be required by law or contract.

- (2) Enforce the provisions of this Chapter and all applicable state and local laws relating to the care, treatment, and impounding of animals, and specifically to issue citations and to make arrests for violations of the provisions of this Chapter and related state laws, to the extent authorized by law.
- (3) Impound animals found to be in violation of this Chapter in the interest of protecting public health and safety.
- (4) Investigate animals pursuant to this Chapter or applicable state law and, if deemed appropriate, designate any such animals as Dangerous or Vicious pursuant to this Chapter.
- (5) Impound animals which are in imminent or ongoing danger, or which are in need of safekeeping in order to protect the health and safety of the animal.
- (6) Impound animals that are causing a threat to public safety.
- (7) Where authorized under the law, to enter upon any premises upon which any animal is kept in order to seize or impound of any animal if reasonable cause exists to believe that such animal is being kept or has behaved in violation of the provisions of this Chapter.
- (8) To remove and dispose of the carcass of any animal(s) found on any public right of way, except freeways or other areas maintained by Caltrans.
- (9) Quarantine animals under the direction of the County Health Officer to ensure public health and safety.
- (10) Euthanize and/or dispose of animal(s) humanely and in accordance with the law.
- (11) Place for adoption, when appropriate, properly impounded animals if such animals are not redeemed after due notice to known Owners in accordance with the law.
- (12) Provide and hold vaccination clinics in strategic locations throughout the County pursuant to Health and Safety Code 121690.
- (13) Provide or make available at low cost, spay/neuter surgeries to dogs, cats, and rabbits.
- (14) Provide for issuance of an animal license for a period not to exceed the term of the anti-rabies vaccination, as provided by state law.

- (15) To collect any fees or charges provided for in this Chapter for the licensing, impounding and/or keeping of any animal, or for the enforcement of this Chapter.
- (b) Animal Control Officers qualified under Penal Code section 830.9, who are either employees of the County designated as such by the County, or employee(s) of and designated as such by a society for prevention of cruelty to animals or humane society which has contracted with the County to provide animal control services, shall have the authority to issue citations and/or notices to appear in court, and obtain and execute search warrants to the maximum extent allowed by law, for violations of state and local animal control laws. Animal Control Officers shall have the authority provided by state law including, but not limited to, that described by Penal Code section 830.9. Animal Control Officers must complete Penal Code section 832 training.
- (c) Those employees of a society for prevention of cruelty to animals or humane society under contract with the County to provide animal control services, who have been appointed and qualify as humane officers under California Corporations Code section 14502, or its successor statute, shall have the authority to issue citations and/or notices to appear in court, and obtain and execute search warrants, to the maximum extent allowed by law, for violations of state and local animal control laws.
- (d) The County may contract for animal control services to be performed countywide, including within cities, provided agreement is made with the participating jurisdictions.

6.04.030 - Rabies Vaccinations.

- (a) Every dog or cat Owner shall ensure their animal is vaccinated for rabies by a licensed veterinarian in the manner prescribed or approved by state law and the State of California Department of Public Health, after the dog or cat attains the age of three (3) months of age and/or within ten (10) calendar days of acquiring an unvaccinated animal. This vaccination shall be obtained prior to issuing a license for the dog or cat. In addition, proof of vaccination shall be provided by the Owner or Veterinarian to the Licensing Program or the County's animal control contractor.
- (b) Every veterinarian who vaccinates or causes or directs to be vaccinated in the County any dog, or cat with rabies vaccine shall certify that such animal has been vaccinated. Every veterinarian shall submit to the licensing authority a copy of the County-approved rabies vaccination form, within ten (10) calendar days of the beginning of each month, for any dog or cat which they vaccinate or direct to be vaccinated with anti-rabies during the previous month. An Animal Control Officer or Animal Licensing

staff shall have the right to inspect records of rabies vaccinations during normal business hours.

- (c) Upon receipt of a written request from a licensed veterinarian to exempt a microchipped pet from receiving a one or three-year vaccination, for medical reasons, the County Health Officer and/or designee shall review the basis for the request for exemption and approve or/deny said request.

6.04.040 - Dog and Cat Licenses.

- (a) Licensing requirements for dogs and cats shall be as follows:
 - (1) An annual license shall be obtained, and an annual license fee shall be paid by the Owner for every dog or cat over the age of three (3) months owned or kept in unincorporated San Mateo County, and all cities within the County which adopt this Chapter. Said annual license fee shall be first due when the animal reaches three (3) months of age or within sixty (60) calendar days after the dog or cat is acquired, and due on the expiration date of the rabies vaccination and each year thereafter.
 - (2) New residents shall have sixty (60) calendar days in which to acquire such license.
 - (3) Persons renewing their license shall have thirty (30) calendar days following their due date before being found delinquent and assessed a late penalty.
 - (4) The fee for such license shall be as set forth in section 6.04.350 of this Chapter. The fee paid for the licensing of altered dogs and cats shall be less than said license fee for unaltered cats or dogs upon presentation of the proper certification. The license fee paid by persons over the age of 60 shall be at a discount.
 - (5) An Owner may obtain a three-year license for a cat or dog by submitting to the Licensing Program adequate proof of a three-year rabies vaccination of the animal to be licensed and payment of the applicable fees, as set forth in section 6.04.350 of this code.
 - (6) Any person who fails to pay such license fee after said fee is due or said dog or cat is required to be licensed, in addition to paying any past due license fee(s), may also be required to pay a late fee in accordance with Section 6.04.350 of this Chapter or may receive an administrative citation.

- (7) A license shall be obtained, but no license fee shall be payable, by the Owner of any dog being raised, trained or used as a service animal, or for dogs that have served as a member of the armed forces of the United States of America, or any dog used by a local law enforcement agency for the purposes of law enforcement.
 - (8) Animals with microchip implants or other permanent identification acceptable to the Animal Control Program are not exempt from the mandatory licensing requirements.
- (b) The licensing provisions in this Chapter are not applicable to the following:
- (1) Dogs or cats used for diagnostic purposes or research, the use having been approved by the California State Department of Health Services pursuant to section 1666 of the Health and Safety Code.
 - (2) Dogs or cats used for teaching purposes in recognized educational institutions.
 - (3) Dogs or cats owned by veterinarians licensed by the State and kept on the premises used by said veterinarians in their practice.
- (c) Tags for dogs and cats shall be issued as follows:
- (1) The Licensing Program shall procure and, when licensing fee is paid, issue a lifetime tag which shall bear the number of the license. A record shall be kept with the name of the Owner together with a description of the dog or cat for which the license is issued and the number of the license, and a tag shall be provided to such person upon payment for such license as provided by this Chapter.
 - (2) Whenever a tag has been lost or stolen, the Owner of the animal may request a duplicate tag upon payment of the required fee.
 - (3) The Owner of a licensed dog or cat shall affix such tag to a suitable collar, which collar shall remain on the dog or cat at all times.
 - (4) When an animal has been designated as a service animal, the Owner may obtain a lifetime service tag and shall be required to follow the requirements in Section 6.04.030 (a). Said tag will replace a regular dog license.
 - (5) The owner or operator of any kennel, animal breeding facility, pet shop, or any place or establishment where animals are sold, adopted, or given away shall keep a permanent record of the name, address, and phone number of the purchaser of any dog or cat, along with the breed, color, sex, and age of each animal sold, adopted, or given

away and shall forward such information to Animal Control Services within thirty (30) calendar days thereafter. An Animal Control Officer, County representative, or employee of the County's animal control contractor shall have the right to inspect such records during normal business hours, with forty-eight (48) hours prior notice to the Owner or operator.

6.04.050 - Public Protection from Dogs.

- (a) No Owner or possessor of a dog shall cause or allow such dog to bite, or physically threaten or harass any person unless necessary to protect the physical safety of a person.
- (b) Every Owner or possessor of a dog shall prevent such dog from causing injury to another animal while such animal is lawfully upon public or private property. The failure of the owner of a victim animal to have the animal on a leash shall not, in itself, constitute a mitigating factor in any attack.
- (c) No Owner or possessor of a dog shall command or provoke such dog to attack, sic or threaten a person unless such action is necessary to protect the physical safety of a person.
- (d) No Owner or possessor of a dog that resides in another county and is found to have violated this section shall thereafter allow such dog to be brought into San Mateo County unless the dog is fully enclosed in a vehicle and passing through to another location without stopping at any public or private premises within the County.

6.04.060 - Prohibited Conduct.

No Owner or other person having care, custody or control of any animal shall cause or permit it to do any of following:

- (a) To be upon any public street, sidewalk, park, school ground, any public property, or upon any unenclosed premises in this jurisdiction unless:
 - 1) the animal is properly licensed, if such licensing is necessary hereunder,
and
 - 2) the animal is controlled by a chain, lead rope, or leash, which is connected
to the animal's collar, saddle, harness, or halter. This requirement is not applicable to cats, or to service animals under the complete control of the Owner or caretaker.

An electric or invisible fence does not constitute an enclosure for the purposes of this requirement.

- (b) To trespass upon any private property without the consent of the owner thereof, and to knowingly permit the animal to remain upon the property, or to habitually continue to trespass thereon.
- (c) To suffer or permit such animal to habitually bark or meow or otherwise act to disturb the peace of any citizen or to be a public nuisance.
- (d) To be without proper and adequate food, water, shelter, care, and attention.
- (e) No person shall possess within San Mateo County any animal designated by another jurisdiction as “potentially dangerous”, “dangerous”, or “vicious,” or other designation based on the animal’s potential danger to humans and/or animals, without previously notifying Animal Control and receiving express written permission from the Animal Control Manager for the animal’s presence or residence in San Mateo County. A failure to receive prior permission is in itself a sufficient basis for an Animal Control Officer or peace officer to seize and impound such animal.
- (f) Subsection (a) 1) 2) of this section shall not be applicable to cats.

6.04.070 - Protection of Animals in Motor Vehicles.

- (a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of said animal due to heat, cold, lack of adequate ventilation, lack of water, or other circumstances that could reasonably be expected to cause suffering, disability, or death of said animal.
- (b) An Animal Control Officer, Humane Officer or peace officer may remove an animal from a motor vehicle if the animal’s safety reasonably appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. An Animal Control Officer, Humane Officer or peace officer is authorized to take all steps that are necessary for the removal of such animal from the motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort has been made to locate the Owner or other person responsible.
- (c) If an animal is removed from a motor vehicle as set forth herein, the removing officer shall, if deemed necessary by the officer, take it to an animal shelter, veterinary hospital, or other place of safekeeping.

- (d) An Animal Control Officer or peace officer who removes an animal from a motor vehicle shall, in a conspicuous location on or within the motor vehicle, leave written notice bearing their name and office, and the address of the location where the animal can be claimed. The animal may be released to the Owner only after payment of all fees that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
- (e) Nothing in this section shall preclude prosecution under both this section and California Penal Code Section 597 or any other provision of state or local law.

6.04.080 - Release from Confinement.

No person other than the Owner, or person authorized by the Owner of the animal shall release any animal from any confinement, vehicle, or restraint unless such release is necessary for the immediate health and safety of the animal. This section shall not apply to Animal Control Officers, Humane Officers, and/or peace officers.

6.04.090 - Declaration of Dangerous Animal.

- (a) No person shall knowingly keep, have, maintain, sell, trade, or let for hire an animal designated as Dangerous under this Chapter without obtaining a Dangerous Animal Permit from the Animal Control Officer. The animal Owner shall comply with all conditions of the Dangerous Animal Permit including, but not limited to, all requirements of section 6.04.100 of this Chapter. Any animal which is determined to be Dangerous under this Chapter and for which a permit has not been obtained shall be surrendered to an Animal Control Officer, Peace Officer, or a County animal control contractor agency for appropriate disposition, which may include humane euthanasia.
- (b) In determining whether or not an animal shall be designated as Dangerous, the Animal Control Officer, peace officer, or hearing officer may consider any relevant facts and circumstances, including but not limited to:
 - (1) the alleged attacking animal's prior history.
 - (2) the alleged attacking animal's Owner(s) ability to comply with this Chapter, and/or compliance with any prior Dangerous Animal Permits held by the alleged attacking animal's Owner(s).

- (3) whether any of the animals involved were previously deemed by a governmental jurisdiction as “potentially dangerous, “dangerous”, “vicious” or any other similar designation.
- (c) In determining whether or not an animal shall be designated as Dangerous, the Animal Control Officer, peace officer, or hearing officer, may consider the following mitigating factors:
 - (1) Whether at the time of the injury, attack or molestation, the person or animal suffering the injury, attack or molestation:
 - (i) provoked, tormented, teased, abused or assaulted the animal, thereby causing or contributing to the alleged behavior;
 - (ii) committed a willful trespass or other tort upon the private property of the Owner or caretaker of the animal in the presence of the animal;
 - (iii) threatened or committed an unjustified attack or assault against the Owner, caretaker or other person in control of the animal in the presence of the animal
 - (2) Any other mitigating factor relevant to whether the animal poses a threat to public health or safety. The failure of the Owner or person in control of a victim animal to have the victim animal on a leash shall not, in itself, constitute a mitigating factor in any attack.
- (d) The unwillingness of a victim or a particular witness to testify at a hearing shall not prevent designation of an animal as a Dangerous Animal, as long as sufficient evidence exists to support the designation.
- (e) In the event that an Animal Control Officer or peace officer determines it necessary to protect the health or safety of the public, or of any animal, they may immediately impound any animal according to the procedures set forth in this Chapter.
- (f) If an Animal Control Officer or peace officer has investigated and determined that an animal is Dangerous, the Animal Control Officer or peace officer shall deliver written notice of such determination to the Owner of the animal pursuant to section 6.04.260.

- (g) Should the Owner of the animal wish to contest the Dangerous Animal designation, the Owner may request a hearing, which hearing shall be conducted according to the procedures set forth in section 6.04.150 of this Chapter. The Owner shall submit a written request for a Dangerous Animal hearing to the Animal Control Officer within seven (7) calendar days of the written notification by the Animal Control Officer and/or peace officer that the animal has been declared dangerous.
- (1) Should the animal Owner not submit a request for an administrative hearing within the required timeframe, the administrative hearing process shall be deemed waived, the Dangerous Animal designation will be final, and the animal Owner shall obtain a Dangerous Animal permit within seven (7) calendar days of the written notification that the animal has been declared Dangerous.
 - (2) If the animal Owner requested a hearing and the hearing officer confirms the determination that the animal is Dangerous, the Owner must obtain the Dangerous Animal permit and meet the conditions required by such permit, within seven (7) calendar days of notice of such decision, unless the time is extended by an Animal Control Officer.
 - (3) If an animal is designated as Dangerous, but the Owner fails to obtain a Dangerous Animal Permit within the required timeframe, the animal will be deemed abandoned, and will be subject to disposition as deemed appropriate, including potential euthanasia by the County's animal control contractor, at the discretion of the Animal Control Officer, peace officer or City or County representative. If not already impounded, the animal will be promptly impounded. The Owner of the animal shall be responsible for all costs of impoundment of the animal incurred prior to such abandonment.
- (h) If after investigation by an Animal Control Officer or peace officer, that officer determines that the animal is not Dangerous, the victim or an Owner of a victim animal may appeal that determination, within seven (7) calendar days of notice of the decision given pursuant to section 6.04.260, by submitting to the Animal Control Officer or peace officer a written request for a hearing and paying the required fee. The Animal Control Officer or peace officer shall prepare a written report documenting its reasons for determining the animal not Dangerous and shall include evidence it has considered for and against the designation in its report. The hearing shall be conducted according to the procedures set forth in section 6.04.150 of this Chapter.
- (i) No animal designated by the County as a Dangerous Animal may be transferred to a new place of residence or to a new Owner or Caretaker

without prior written approval of the Animal Control Program Manager. Prior to the relocation, a written request for the relocation must be delivered to the Animal Control Program Manager and the County's animal control contractor, if any, at least 30 calendar days prior to the relocation.

- (j) If an Animal Control Officer declares an animal as Dangerous which has already been declared Potentially Dangerous or Dangerous by another jurisdiction located outside of the County of San Mateo, the Owner of such animal must obtain and comply with a Dangerous Animal Permit at least seven (7) calendar days prior to moving the animal into the County. The animal shall not reside in the County of San Mateo until the Dangerous Animal Permit has been issued by the Animal Control Program and the Owner meets the conditions of said permit.
- (k) A permit issued under this section is subject to renewal annually. An annual inspection of the location where the animal resides will be performed by an Animal Control Officer. Inspections may occur at any reasonable hour and will occur at least annually. The fee for such permit and inspection shall be as set forth in section 6.04.350 of this Chapter. Fees shall not be refundable. If the registered Owner fails to pay the permit fee and/or comply with the requirements of the permit within ten (10) calendar days of the annual inspection date, the permit may be revoked and the animal may be impounded for appropriate disposition, as determined by an Animal Control Officer, peace officer, County contracted agency or City designee, including humane euthanasia.
- (l) A Dangerous Animal designation is a designation that remains with that animal for its lifetime, unless terminated as provided by this subsection. A Dangerous Animal designation may be terminated if all of the following criteria have been met, as determined by an Animal Control Officer or peace officer and the Animal Control Manager and/or City designee:
 - (1) The Owner has complied with all Dangerous Animal Permit requirements for a period of three (3) years and the animal has not been found to have committed any violations of the requirements of the permit, or of this Chapter, or any other applicable animal control laws, for the duration of that period.
 - (2) The animal has remained current on all rabies or similar required vaccinations and has remained current on its licensing and paid all fees for the duration of the three (3) year period.

If an animal Owner disputes a finding that the Dangerous Animal designation will not be terminated, the animal Owner may request an administrative hearing to be held according to the procedures set forth in section 6.04.150 of this Chapter.

6.04.100 - Dangerous Animal Permit Requirements.

- (a) Any Owner of a Dangerous Animal shall ensure compliance with the following rules and regulations which shall be mandatory requirements for any Dangerous Animal Permit:
- (1) When the animal is off the property of its Owner, ensure that the animal is not kept upon any unenclosed premise unless said animal is leashed and muzzled with a cage or basket muzzle, or any other muzzle approved by the Animal Control Officer. The leash shall not exceed four (4) feet in length and having a minimum tensile strength of 300 pounds and shall be under the direct control and supervision of the Owner or a person of such age, size, and strength as can easily control such animal. Extraordinary care shall be taken by the Owner and/or caretaker to ensure that such restraint is sufficient to control the animal in a manner which it will not endanger other persons or animals.
 - (2) Ensure said animal is never kept on any unenclosed premises even if tethered, tied or staked.
 - (3) Ensure said animal is kept in a fenced yard, kennel, dog run or other enclosure, sufficient to prevent the escape of the animal or entry of young children, as approved by the Animal Control Officer or peace officer. An electric or invisible fence is not an acceptable means of enclosure for the purpose of this requirement.
 - (4) Maintain the animal so that it is not a threat to any mail carrier, sanitation worker, meter person, or other person who has the lawful right to enter the property.
 - (5) Ensure that all structures used to confine the animals are locked with a key or combination lock when such animals are within the fenced yard, kennel, run or enclosure.
 - (6) Regularly inspect the fenced yard, kennel, dog run or enclosure to ensure that it is secure to maintain the animal and keep young children out.
 - (7) Allow inspections by any Animal Control Officer or peace officer at any reasonable hour of the premises or premises upon which the animal is maintained.
 - (8) Pay permit and property inspection fees as set forth in section 6.04.350 of this Chapter within (10) ten calendar days of the permit issuance or renewal.

- (9) Obtain and post approved sign(s) from the Animal Control Program after payment of a non-refundable fee as set forth in Section 6.04.350 of this Chapter. Sign(s) shall be conspicuously posted in a manner visible to the public at all entrances to the property where the animal is kept, warning persons of the presence of a Dangerous Animal as directed by the Animal Control Officer or peace officer. Such sign(s) must be surrendered in the event of the revocation of the permit, death of animal, or approved relocation of the animal.
- (10) Advise all members who reside in the same household and on the same premises of the conditions established by the permit for keeping or maintaining said Dangerous Animal.
- (11) Ensure said animal wears, at all times, a separate Dangerous Animal tag issued by the Animal Control Program in addition to complying with license requirements as defined in Section 6.04.040 of this Chapter.
- (12) Ensure said animal be microchipped and inform the Animal Control Officer with the microchip number within thirty (30) calendar days from the date the Dangerous Animal Permit was issued.
- (13) Within forty-five (45) calendar days from the date the Dangerous Animal Permit was issued, unless this period is extended by the Animal Control Manager or city representative at their sole discretion, said animal shall be spayed or neutered by a California licensed veterinarian, at Owner expense, and within those forty-five (45) days, the Owner shall also present written proof to the Animal Control Officer that the surgery was performed. In the event an animal cannot be safely altered, due to a medical reason, the Owner shall present the Animal Control Program Manager and Animal Control Officer with a written request from a California licensed Veterinarian stating the medical reason(s) that the animal should not be altered. The County Health Officer or designee will approve or deny the request. If said request is denied, the animal shall be altered by a California licensed Veterinarian within fifteen (15) calendar days from the date of notification that the request was not approved, and within those fifteen (15) calendars days provide such written proof to the Animal Control Officer that the surgery was performed.
- (14) Notify an Animal Control Officer and the Animal Control Program Manager of the animal's death within twenty-four (24) hours and produce the animal's body for verification upon request.
- (15) Notify an Animal Control Officer and the Animal Control Program Manager immediately in the event the animal becomes lost, stolen,

or escapes from its fenced yard, kennel run, or enclosure.

- (16) Pay all reoccurring of additional fees within ten (10) calendar days of service of the invoice or annual permit. Non-payment of fee may result in the permit being revoked unless a payment plan has been approved by the County or City.
 - (17) Comply with all other permit conditions or requirements imposed by an Animal Control Officer, peace officer, or hearing officer pursuant to this Chapter.
 - (18) Comply with all local and state laws regarding the care, use, control, and maintenance of animals.
- (b) Any Owner of a Dangerous Animal shall ensure compliance with the following additional requirements, if directed to do so by an Animal Control Officer, peace officer and/or hearing officer:
- (1) Prove financial responsibility by posting a bond or certificate of insurance for an amount of three hundred thousand dollars (\$300,000) per animal within thirty (30) calendar days from the date of the Dangerous designation. Bond or certificate of insurance will be provided to the Animal Control Program Manager annually prior to expiration of said bond or certificate.
 - (2) Provide private behavioral and obedience training to the animal, at the Owner's expense and within the time set forth by the hearing officer or an Animal Control Officer following the issuance of a Dangerous Animal Permit. Proof of participation, a report of behavioral assessment, and/or a certificate of satisfactory completion from an animal behaviorist or organization approved by an Animal Control Officer shall be provided to the Animal Control Officer and Program Manager of Animal Control within seven (7) calendar days following the completion of the mandatory training, but not more than ninety (90) calendar days from the date of the Dangerous designation.
 - (3) Comply with any other permit requirements determined to be reasonably necessary to protect the public's health or safety and/or the health or safety of other animals.
- (c) No more than two Dangerous Animals may be kept by any person(s) at any one household, residence, business, or other location, without prior written approval of the designee of the appropriate jurisdiction.

6.04.110 - Revocation or Modification of Dangerous Animal Permit.

- (a) Any Dangerous Animal permit issued pursuant to this Chapter may be revoked or modified by the inclusion of additional requirements or otherwise, if the Animal Control Officer or peace officer has reasonable cause to believe any of the following to be true:
 - (1) The dangerous animal Owner or any person to whom the Owner has given care, custody, or control of the animal has violated any local or state laws relating to the keeping, care or use of any animals.
 - (2) The Owner or any person to whom the Owner has given care, custody, or control of the animal has violated any dangerous animal permit conditions, or any requirement imposed by the Animal Control Officer, peace officer, or hearing officer.
 - (3) The Owner or any person to whom the Owner has given care, custody, or control changed the location of his/her residence or his/her place of business or sells, assigns, transfers, donates, leases, or otherwise disposes of the animal for which the permit was issued without first notifying an Animal Control Officer as outlined in Section 6.04.090
 - (4) The Owner or any person to whom the Owner has given care, custody or control of the animal has changed the residence or premises where the animal is maintained without first complying with the guidelines set forth in Section 6.04.090
 - (5) The Owner or any person to whom the Owner has given care, custody, or control of the animal is unable or unwilling to comply with the conditions of the dangerous animal permit.
- (b) In the event that it is reasonably necessary to protect the public or an animal's health and safety, the Animal Control Officer or peace officer may impound or cause to be impounded the animal while an investigation is taking place.
- (c) If, after investigation, the Animal Control Officer or peace officer concludes that there is probable cause to believe that one or more of the above conditions for revocation or modification of the permit has occurred, the officer shall deliver written notice of revocation or modification to the Owner. Said notice shall specify the grounds of revocation or modification of the permit. Should the Owner of the animal wish to contest the revocation or modification of the permit, the Owner may request an administrative hearing to be held before a hearing officer, as designated by the Animal Control Program Manager, within seven (7) calendar days

of receiving the notice of revocation. Said administrative hearing date shall be not less than seven (7) calendar days or no more than (20) twenty calendar days after the date the request for hearing is received by the Animal Control Manager. The administrative hearing shall be conducted as set forth in section 6.04.150 of this chapter. The hearing officer conducting the hearing may either modify the terms of the permit or revoke the permit.

Any party to the hearing has the right to appeal the administrative hearing decision to the County of San Mateo Superior Court by filing a Petition for a Writ of Administrative Mandate pursuant to California Civil Procedure, Section 1094.5 and 1094.6.

- (d) Upon written notice by the Animal Control Officer, peace officer, or hearing officer, if a hearing was held, if any modifications to a dangerous animal permit are made, the Owner shall immediately comply with such modified permit requirements.
- (e) Upon written notice from an Animal Control Officer, peace officer or hearing officer of the revocation of a Dangerous Animal permit, the Owner of such animal shall within two (2) calendar days of such notification, surrender said animal to an Animal Control Officer. The Dangerous Animal shall be impounded and humanely euthanized unless the County designee or City designee has approved a different disposition. At the sole discretion of the appropriate City or County representative, such animal may be permanently removed from the County of San Mateo to another jurisdiction with written approval from that jurisdiction.

6.04.120 - Possession of Animals After Revocation of Dangerous Animal Permit.

No Person who has been determined to be in possession of or had Ownership of a Dangerous Animal for which a permit has been revoked under this chapter shall be granted any Dangerous Animal permit for a period of three years following such determination or revocation.

6.04.130 - Declaration of Vicious Animals.

- (a) No person shall keep, have, maintain, sell, trade, or let for hire an animal which has been designated as Vicious under the provisions of this Chapter.
- (b) If an Animal Control Officer and/or peace officer has investigated and determined that an animal is Vicious, the Animal Control Officer or peace officer shall deliver written notice of such determination to the Owner of the animal. Service of notice shall be made in accordance with section 6.40.260 subdivision (a) of this Chapter. An Animal Control Officer and/or Peace Officer shall immediately impound the animal, or cause to be

impounded, the animal according to the procedures set forth in Section 6.04.160 of this Chapter. The animal shall be deemed abandoned and shall be humanely euthanized unless the County designee or City designee has approved a different disposition or unless the Owner timely requests an administrative hearing.

(c) In determining whether an animal shall be designated Vicious, in addition to any other facts and circumstances of the incident(s), the applicable decision-maker may consider the following potentially mitigating factors.

- (1) Whether at the time of the injury, attack or molestation, the person or animal suffering the injury, attack, or molestation:
 - (i) provoked, tormented, teased, abused, or assaulted the animal, thereby causing or contributing to the alleged behavior
 - (ii) committed a willful trespass or other tort upon the private property of the Owner or caretaker of the animal; and/or
 - (iii) threatened or committed an unjustified attack or assault against the Owner, caretaker, or other person in control of the charged animal.

The failure of the Owner or other person in control of a victim animal to have the animal on a leash shall not, in itself, constitute a mitigating factor in any attack.

- (2) Whether the Owner is willing and able to comply with the conditions of a Dangerous Animal permit, and whether the animal can be safely maintained on a Dangerous Animal permit considering the nature of the attack and cooperativeness and abilities of the Owner.

(d) The decision-maker may also consider, among any other relevant facts and circumstances, the following factors:

- (1) whether any of the animals involved were previously deemed by any governmental jurisdiction as, "dangerous", "vicious", or any other similar designation, and/or the animal Owner's prior compliance or lack thereof with any applicable dangerous animal permit requirements or this Chapter;
- (2) the attacking animal's history of attacks, bites or threatening

behavior;

- (3) whether the animal demonstrated such aggressive behavior that it is reasonable to conclude that the animal cannot be safely maintained with a Dangerous Animal permit; and
 - (4) whether the Owner is unable or unwilling to comply with the conditions of a Dangerous Animal permit.
- (e) Should the Owner of the animal wish to contest the Vicious Animal designation, the Owner may request an administrative hearing to be conducted according to the procedures set forth in section 6.04.150 of this Chapter. The Owner shall submit a written request for a Vicious Animal hearing to the Animal Control Officer within seven (7) calendar days of the written notification by the Animal Control Officer and/or peace officer that the animal has been declared Vicious.
- (f) Should the Owner not submit a request for an administrative hearing within the required timeframe, the administrative hearing process shall be deemed waived, the Vicious Animal designation will be considered final for purposes of exhaustion of administrative remedies, and the animal will be subject to disposition by the Animal Control Officer, peace officer, or City or County designee. The Owner shall lose all rights of Ownership and control of the animal, and the animal will be subject to humane euthanasia, unless another disposition is deemed appropriate by a City and/or County designee, without further notice to the Owner.
- (g) The unwillingness of a victim or a particular witness to testify at a hearing shall not prevent designation of an animal as Vicious as long as sufficient evidence exists to support the designation.
- (h) If after investigation, an Animal Control Officer and/or peace officer determines that the animal is not Vicious, the Officer will prepare a written decision upon request by any victim suffering physical injury or an Owner of a victim animal, either of whom may appeal that determination. Any victim suffering physical injury as a result of the attack, or Owner of a victim animal, may appeal the determination that an animal is not Vicious by submitting, within seven (7) calendar days of the service of the decision pursuant to section 6.04.260, a written request to the Animal Control Officer for an administrative hearing and paying the required fee as set forth in Section 6.04.350 of this Chapter. The administrative hearing shall be conducted according to the procedures set forth in section 6.04.150 of this Chapter.

6.04.140 - Providing False Information.

It shall be unlawful for a person to willfully and knowingly provide false or misleading information to Animal Control Program staff, including but not limited to an Animal Control Officer, Peace Officer, Animal Control Program Manager, and/or

Hearing Officer regarding animal Ownership, licensing, rabies vaccination, medical treatment and condition, and/or any other matter pertaining to the enforcement of state or local law.

6.04.150 - Administrative Hearing Procedures.

- (a) Administrative hearings held under this Chapter shall be conducted by a hearing officer or designated representative appointed by the Director or designee of the San Mateo County Health. Any city contracting with the County for animal control services may elect to utilize the services of any San Mateo County designated hearing officer to conduct hearings on behalf of the city pursuant to that city's animal control ordinances. The hearings shall be scheduled no less than seven (7) calendar days and no more than fifteen (15) calendar days from the receipt of the request for the hearing unless the hearing officer finds good cause for continuance.
- (b) The Animal Control Officer or peace officer conducting the investigation shall provide their investigation report and any evidence gathered by the officer to the Animal Control Manager or designee no less than 72 hours prior to said administrative hearing. The Animal Control Manager or designee will promptly provide the report to the parties to the case, including the Owner of the subject dog and the Owner of the victim dog.
- (c) The administrative hearing shall be conducted in an informal manner consistent with due process of law. Any party may be represented by counsel. The parties may present relevant evidence including witnesses. The strict rules of evidence shall not be applicable. Any relevant evidence, including but not limited to hearsay evidence, may be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely on in the conduct of serious affairs. The hearing officer shall decide the matter based on preponderance of the evidence presented at the hearing. The administrative hearing shall be recorded, and all documentary evidence submitted at the administrative hearing shall be preserved by the Animal Control Manager for a period of no less than two years. Any party may arrange for a court reporter to be present. Any party desiring the presence of a court reporter shall make all necessary arrangements and shall be responsible for payment of all costs.
- (d) The hearing officer may exclude disorderly or disruptive persons from the hearing or make other orders as necessary to ensure the fair and orderly conduct of the administrative hearing.
- (e) The hearing officer may decide all issues for or against the Owner(s) of the involved animal(s) even if the Owner(s) fail to appear at the hearing.
- (f) Within seven (7) calendar days of the administrative hearing, the hearing officer shall render a written decision, which shall be final for the purposes

of exhaustion of administrative remedies upon the date of mailing. The Animal Control Manager or designee shall mail the written decision and affidavit/certificate of mailing showing the date of mailing, on behalf of the hearing officer, by first class mail, postage prepaid. The decision will be mailed to the Owner of the alleged Dangerous or Vicious Animal, the victim or Owner of the victim animal, and the investigating Animal Control Officer or peace officer.

- (g) If the animal is designated Dangerous, the Owner must apply for and obtain a Dangerous Animal permit as provided by this Chapter within seven (7) calendar days of the decision letter in order to maintain the animal and the Owner must comply with all mandatory Dangerous Animal permit rules and regulations as defined in section 6.04.120 of this Chapter. A hearing officer may impose additional permit requirements as set forth in this Chapter.
- (h) If the animal is designated Vicious, the Owner of such animal shall lose all rights of Ownership and control of the animal, and the animal will be subject to humane euthanasia, unless another disposition is deemed appropriate by a City and/or County designee, without further notice to the Owner. An animal designated as Vicious will be held at the animal shelter for a minimum of seven (7) calendar days from the date of the hearing officer's decision, prior to any proposed euthanasia.
- (i) Unless the hearing officer for good cause otherwise determines, the party requesting the administrative hearing is liable for all costs related to such hearing. A determination by the hearing officer that the animal is not dangerous or vicious shall constitute good cause.
- (j) Hearing officer decisions are appealable to the San Mateo County Superior Court by filing a Petition for Writ of Administrative Mandate pursuant to California Civil Procedure, Section 1094.5 and 1094.6.
- (k) The procedures and/or definitions pertaining to potentially dangerous and vicious dogs set forth in the California Food and Agricultural Code Chapter 9, beginning with section 31601, are not adopted and do not apply within San Mateo County. As authorized by Food and Agricultural Code section 31683, the County has adopted its own program for regulation of dangerous and vicious dogs as contained in this Chapter.

6.04.160 - Animals to Be Impounded.

- (a) The Animal Control Program may impound any animal kept or found under conditions that constitute a violation of this Chapter or other state or local law. The animal's Owner shall be responsible for all costs incurred or fees applicable with respect to such impoundment and maintenance in the shelter.

- (b) An Animal Control Officer or peace officer may impound or cause to be impounded an animal when there is reasonable cause to believe that such animal posed, or poses, a threat to the public's health and safety, or the health and safety of another animal. The animal may remain impounded for a period not to exceed fifteen (15) calendar days in order to investigate, and to determine whether or not said animal is Dangerous or Vicious as defined by this Chapter. In calculating the fifteen (15) calendar days, the first day of impoundment is not included. If an animal is not impounded within fifteen (15) calendar days after an investigation began, the Animal Control Officer or peace officer shall make a determination whether or not the animal is Vicious or Dangerous and shall notify the Owner of said animal as soon as reasonably practical thereafter.
- (c) Within twenty-four (24) hours of the impoundment of any animal, the impounding Animal Control Officer shall serve the Owner of the animal with notice of the impoundment.
- (d) No impounded animal may be redeemed unless and until any required license fee and/or other applicable charges and fees have been paid. In the event such animal is not redeemed within the time set forth by State law, it shall be deemed abandoned and may be adopted, transferred to a rescue, or disposed of in the manner determined by the Animal Control Program. The Animal Control Program shall issue to the Owner or person responsible of the care, custody, and control of said animal a receipt showing an itemized description and the amount of the fee(s) paid.
- (e) The Animal Control Program shall keep a record of all animals impounded, which record shall include a description of the animal, the date of its receipt, the date and manner of disposal, the name of the person redeeming, adopting, or purchasing, the fees, and/or charges related to the animal. Said records shall be kept for a period of seven (7) years.

6.04.170 - Stray Animals.

Any person who finds or picks up a stray or lost animal shall report the same to the Animal Control Shelter within twenty-four hours thereafter and shall release such animal to the Animal Control Shelter upon demand.

6.04.180 - Epidemics.

The San Mateo County Health Officer may determine and declare that rabies or other contagious diseases are epidemic or that other health and safety hazards exist among dogs or other animals within the County. Upon the making of such a declaration, the Health Officer shall prepare and promulgate such orders, rules, and regulations as are necessary for appropriate control of all the animals concerned within

the County. Said rules and regulations of the Health Officer may include, but are not limited to, impoundment, quarantine, vaccination, or destruction. It shall be the duty of the Animal Control Officers to assist the Health Officer in carrying out such rules and regulations.

6.04.190 - Bite Reporting Requirements.

- (a) Any Owner or other person who is responsible for the care, custody, or control of an animal that bites a human or other animal shall provide their name and current residence address and telephone number and shall present their driver's license or other form of identification and any information regarding any rabies vaccination for the biting animal to the person bitten or the Owner of the animal bitten. If the person bitten is a minor, the Owner or person in control of the biting animal shall provide the required information to the parent or guardian of the minor.
- (b) In addition to the above requirements, it shall be the duty of any person having knowledge of any animal which has bitten a human being or other animal within the County to immediately, in no case later than the end of the next calendar day, report the bite to an Animal Control Officer or peace officer and to furnish as much information as possible, including date, time and location of bite, description of animal or person bitten, name and license number of the biting animal, and rabies vaccination history of the biting animal.

6.04.200 - Administrative Citations.

- (a) Should an Animal Control Officer, Humane Officer or peace officer determine that a person has violated any provision this Chapter, that enforcement officer shall have authority to issue and serve notice of an administrative citation as set forth in section 6.04.260, to the person violating the Chapter.
- (b) Each administrative citation shall contain the following information:
 - (1) The name and address of the Owner or other person to be cited.
 - (2) The date(s) of the violation.
 - (3) The address or a specific description of the location where the violation occurred.
 - (4) The section, subsection, and/or provision of this Chapter violated by the person cited and a description of that violation.
 - (5) A prohibition of the continuation or repetition of the violation described in the administrative citation.

- (6) If applicable a description of the potential consequence(s) should the violation continue or be repeated.
 - (7) Either:
 - i) The amount of the administrative fine charged and to be paid by the person cited as a result of the violation; or
 - ii) A notice to correct a certain violation within a reasonable time, and the amount of an administrative fine that may occur if the violation is not corrected or remedied by the date specified.
 - (8) A description of the procedure to pay the fine, to include the time period for and place of payment, and the process by which the County may collect any unpaid amount owed.
 - (9) A description of the administrative citation review process, including the time within which the administrative citation may be appealed and how to appeal the administrative citation, including any form to do so.
 - (10) The name and signature of the citing Animal Control Officer, Humane Officer or peace officer or County designee.
- (c) An administrative citation may be any format, including letter, which conveys the information set forth above.

6.04.210 - Appeal of Administrative Citation.

- (a) A recipient of an administrative citation may contest the citation including, but not limited to, on the basis that the underlying violation did not occur, or that recipient is not the party responsible for the violation and thus was the improper recipient of the administrative citation. The recipient must contest the citation on the form provided by the Animal Program Manager or Animal Control Officer and file the appeal with the Animal Control Program Manager within twelve (12) calendar days from the date of service of the administrative citation. Any appeal not timely filed will be rejected.
- (b) The appeal shall contain the following provided by the person appealing the citation:
 - (1) The name, mailing address, and telephone number of the party requesting the appeal;

- (2) A copy of the administrative citation or a reference number thereto;
 - (3) A statement of the grounds for the contest, including a description of the evidence to be presented in support of the contest and copies of any statements or documents to be submitted at the hearing in support of the appeal.
 - (4) The signature of the appealing party;
 - (5) A deposit of the fine assessed as set forth in the citation(s), to be refunded if the appeal is successful.
- (c) Should an appeal be properly and timely requested, the requesting party shall be provided a hearing before a hearing officer to be held pursuant to the procedures set forth in section 6.04.150 as applicable. The Animal Control Program shall notify the person requesting the appeal hearing of the time and place set for the hearing pursuant to section 6.04.260.

6.04.220 - Payment of Administrative Fines.

- (a) In the absence of an appeal by the recipient of the administrative citation, the person cited shall pay the administrative fine in full within thirty (30) calendar days from the date of service of the notice of citation. In the event of an appeal, after which the violation is upheld, if not already paid, the fine shall be paid in full within ten (10) calendar days after the date that the decision of the hearing officer was served on the recipient.
- (b) Payment of any fine shall not excuse the failure to correct the violation, nor shall it bar further enforcement of the same or any similar violation or any other violation by any applicable means.
- (c) Failure to pay any fines assessed within the guidelines set forth in this Chapter will result in a late charge pursuant to section 6.04.230, which will be collected by the Animal Control Program Manager.

6.04.230 - Amount of Administrative Fines.

- (a) Any person issued an administrative citation for a violation of, and pursuant to, this Chapter shall be assessed and pay a fine as follows:
 - (1) One hundred dollars (\$100) for a first citation.
 - (2) Two hundred dollars (\$200) for a second citation for the same violation within a one-year period.
 - (3) Five hundred (\$500) for each additional citation for the same violation within a one-year period.

6.04.240 - Misdemeanor Violations.

- (a) A person violating any provision of this Chapter shall be guilty of an infraction except as otherwise specifically provided.
- (b) A person violating any provision of section 6.04.050, subsection (a) of section 6.04.090 or subsection (a) of section 6.04.130 of this Chapter shall be guilty of a misdemeanor.
- (c) This section shall not limit any other available criminal, civil or administrative remedies. Any or all applicable remedies shall remain available for violation of the provisions of this Chapter.

6.40.250 - Violation of Chapter a Public Nuisance; Remedies Cumulative.

- (a) Violation of this Chapter is a public nuisance subject to any and all applicable civil, administrative, and criminal remedies, according to the provisions and procedures set forth in this Chapter and other applicable state and local law.
- (b) This section is not intended to limit any other available criminal, civil or administrative remedies. Any or all applicable administrative, civil and /or criminal remedies shall be available for violation of the provisions of this Chapter.
- (c) Each day a violation continues shall constitute a separate violation.

6.40.260 - Service of Documents and Notices.

- (a) Unless otherwise specified herein, the appropriate representative of the Animal Control Program shall provide any required notice or service of documents in the one of the following manners: (1) by personal delivery to the person to be notified or served; or (2) by posting on the property at the address where the subject animal is licensed or the Owner of such animal resides; or (3) by depositing in the United States Mail, in a sealed envelope, first class postage prepaid, and addressed to such person to be notified or served at their last-known business or residence address or as the same appears in the last equalized County assessment roll. Service by mail shall be deemed complete at the time of deposit in the United States Mail receptacle and shall include a declaration or affidavit of service which shall include notice of the date mailed. If agreed in writing by the person to be served, notices or documents may be served electronically at the address provided by the person to be served, to be effective upon being sent.

- (b) Failure to receive any notice specified herein does not affect the validity of proceedings conducted hereunder.

6.04.270 - Field Return Fee.

A fee shall be charged for any animal impounded by a representative of the Animal Control Program and returned by an Animal Control Officer in the field to the Owner or person who is responsible for the care, custody, or control of the animal. The fee charged shall be paid by the Owner or person who is responsible for the care, custody, or control of said animal. Such fee shall be set forth in Section 6.04.350.

6.04.280 - Redemption and Spay/Neuter Fee.

- (a) Upon redemption of any impounded unaltered animal, the person responsible for the care, custody or control of any animal will be required to pay a spay or neuter fee in the amount of \$100.00 in addition to the impound fees imposed under Section 6.04.350 of this Chapter. Such fee shall be refundable upon proof of spay and neuter of the animal within thirty (30) calendar days following the date of redemption.
- (b) Any unaltered animal impounded twice or more within a three-year period shall be altered at a cost to be paid by the Owner/caretaker or person responsible for the care, custody, or control of said animal prior to redemption. At the option of the Owner/caretaker or person responsible for the care, custody, or control of said animal, required spaying or neutering may be performed by a private veterinarian within thirty (30) calendar days.
- (c) Any Owner or Caretaker of an impounded animal subject to mandatory spay/neuter under Subsection (b) of this Section may appeal this requirement by submitting a written request for an administrative hearing to the Animal Control Program Manager. The administrative hearing will be conducted according to the provisions of Section 6.04.150 of this Chapter.
- (d) The Animal Control Program Manager may waive any County or City fee for County or City spay/neuter, vaccination or impoundment of an animal, if the animal is a feral or stray cat and the person bringing the animal to the shelter agrees that the person shall have no rights in the animal or any right to direct or control treatment or disposition of the animal by the Animal Control Program which will retain sole discretion in determining the disposition of the animal, which may include but not be limited to treatment and/or adoption, or euthanasia.

6.04.290 - Quarantine Fee.

A quarantine fee, as set forth in Section 6.04.350, shall be paid by the Owner or caretaker of any animal involved, or potentially involved, in a bite. Such quarantine fee

is in addition to any other fees charged set forth in Section 6.04.350 of this Chapter to recover costs incurred by the Animal Control Program for the sheltering and caring for the quarantined animal.

6.04.350 - Schedule of Fees and Charges.

This Section 6.04.350 sets forth the fees for the Animal Control Program and Licensing Program. No animal shall be released to its Owner, or other person responsible for the care, custody, or control of the animal, unless applicable fees have been paid.

Animal Control and Licensing fees and charges established by this code are as follows:

(a) License Fees.

Dogs		
Unaltered dog		
1-year license		\$55.00
3-year license		\$160.00
Unaltered dog Senior Pet Owner (over 60 yrs.)		
1-year license		\$23.00
3-year license		\$64.00
Altered dog		
1-year license		\$25.00
3-year license		\$70.00
Altered dog Senior Pet Owner (over 60 yrs.)		
1-year license		\$10.00
3-year license		\$25.00
Misc. dog fees		
Late fee		\$20.00
Duplicate tag		\$10.00
Cats		
Unaltered cat		
1-year license		\$20.00
3-year license		\$55.00

Unaltered cat Senior Pet Owner (over 60 yrs.)		
1-year license		\$12.00
3-year license		\$31.00
Altered cat		
1-year license		\$8.00
3-year license		\$19.00
Altered cat/ Senior Pet Owner (over 60 yrs.)		
1-year license		\$5.00
3-year license		\$12.00
Misc. cat fees		
Late fee		\$7.00
Duplicate tag		\$5.00

(b) Redemption Charges

Type A & B (large or medium size animals — horses, cows, hogs, sheep, etc.)		
Impound cost		\$100.00
Board cost per day		\$30.00
Trailing cost (per use)		\$100.00
Type C (dogs, and cats)		
Impound Costs — First Impound		
Altered — licensed, wearing tag		\$40.00
Unaltered — licensed, wearing tag		\$65.00
Altered — unlicensed, no tag		\$55.00
Unaltered — unlicensed, no tag		\$85.00
Impound Costs — Second Impound		
Altered — licensed, wearing tag		\$90.00
Unaltered — licensed, wearing tag		\$125.00
Altered — unlicensed, no tag		\$105.00
Unaltered — unlicensed, no tag		\$140.00
Impound Costs — Third Impound		
Altered — licensed, wearing tag		\$135.00

Unaltered — licensed, wearing tag	\$155.00
Altered — unlicensed, no tag	\$155.00
Unaltered — unlicensed, no tag	\$180.00
Impound Costs — Fourth Impound	
Altered — licensed, wearing tag	\$180.00
Unaltered — licensed, wearing tag	\$215.00
Altered — unlicensed, no tag	\$200.00
Unaltered — unlicensed, no tag	\$240.00
Impound Costs — Fifth Impound and up	
Altered — licensed, wearing tag	\$225.00
Unaltered — licensed, wearing tag	\$260.00
Altered — unlicensed, no tag	\$245.00
Unaltered — unlicensed, no tag	\$285.00
Board charges (per day)	
Altered — dogs/	\$25.00
Unaltered — dogs/	\$35.00
Altered — cats	\$16.00
Unaltered — cats	\$22.00
Type D (small size animals, e.g., birds, hamsters, or other)	
Impound cost	\$20.00
Board cost	\$10.00

(c) Surrender, Euthanasia and DOA (Dead on Arrival) Disposal Fees

Dog — Licensed or unlicensed	
Surrender	\$60.00
Euthanasia	\$50.00
DOA Disposal	\$30.00
Cat — Licensed or unlicensed	
Surrender	\$60.00
Euthanasia	\$50.00
DOA Disposal	\$30.00
Rabbit/Small Animal	

Surrender	\$40.00
Euthanasia	\$30.00
DOA Disposal	\$15.00
Litter of Three or more	
Surrender	\$50.00
Euthanasia	\$40.00
DOA Disposal	\$20.00
Bird/Fowl	
Surrender	\$20.00
Euthanasia	\$15.00
DOA Disposal	\$20.00
All Other Companion Animals (Reptiles, Amphibians, etc.)	
Surrender	\$25.00
Euthanasia	\$25.00
DOA Disposal	\$20.00
Farm Animals	
Surrender	\$60.00
Euthanasia: Under 100 pounds Over 100 pounds	\$60.00 \$125.00
DOA Disposal: Under 100 Pounds Over 100 pounds	\$30.00 \$100.00

(d) Other Animal Control Fees

Quarantine Fee	\$60.00
Dangerous Animal Permit (DAP) Fee	\$300.00
DAP Inspection Fee	\$100.00
DAP Signage	\$15.00
Field Retrieval/Return Fee	\$40.00
Breeding Permit Fee	\$150.00
Fancier Permit and/or Exotic Pet Fee	\$100.00
Return Check Fee	\$25.00
Service Dog Application Processing Fee	\$50.00

(b) Miscellaneous Fee Provisions

- (1) The Animal Control Program, and/or Licensing Program, may establish
license discounts for recognized animal rescue organizations.
- (2) License fees include a one dollar (\$1) annual surcharge on all licenses for
the animal population trust fund.
- (3) At the discretion of the Animal Control Program Manager, a payment plan
for all fees outstanding may be permitted upon a showing of good cause. If a person is in compliance with an agreed upon payment plan, their outstanding balance shall never be considered “nonpayment” as that term is used in this Chapter.
- (4) The animal control fees for any animal related service not specified in this section shall be reviewed by the Chief of Health or their designee for reimbursement of costs. The Chief of Health or their designee shall have the authority to determine the fee charged for said services. The fee charged shall be paid by the Owner or caretaker of the animal(s) for which said service(s) have been provided.
- (5) Each calendar year, the Animal Control Program Manager shall designate one month as an amnesty period for payment of cat and dog license late fees and for compliance with section 6.04.020 of this Chapter, as provided herein. During the amnesty period, applicants for cat and dog licenses shall not be assessed any late penalty fee or any other penalty for failure to obtain such license or pay any applicable license fee, notwithstanding sections 6.04.040 and 6.04.350 of this Chapter.
- (6) All revenue derived from the fees, fines, forfeitures, and penalties related to the enforcement of this ordinance shall be used to offset the cost of enforcement and administration of this Chapter.
- (7) If the Animal Control Program Manager determines that payment of any fees by the Owner or Caretaker for an impounded animal would cause extreme financial difficulty to the Owner or Caretaker, and that it is in the best interests of the County to allow release of the animal upon these terms, the Animal Control Program Manager may, at their discretion, set up a payment plan or waive all or part of the fees incurred for the animal.

6.04.360 – Scope.

The provisions of this Chapter shall be in effect in the unincorporated areas of this County and, except where so adopted, are not applicable to any City.

6.04.370 – Severability.

If any section, subsection, sentence, clause, phrase, or word of this Chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, clause, phrase, or word of this Chapter.

SECTION 2. This ordinance shall become effective thirty days after adoption.

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**RESOLUTION NO. 2024-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION AMENDING COLMA ADMINISTRATIVE CODE SUBCHAPTER
1.10, MASTER FEE SCHEDULE, TO UPDATE VARIOUS ANIMAL CONTROL FEES,
PURSUANT TO CEQA GUIDELINE 15378 AND 15061**

The City Council of the Town of Colma hereby resolves:

ARTICLE 1. CAC SUBCHAPTER 1.10 AMENDED; ANIMAL CONTROL FEES

The City Council hereby amends the Colma Administrative Code as follows:

1.10.700	<i>ANIMAL CONTROL: LICENSE FEES.</i>	The following fees will be charged for administration of the Animal Control Program. These fees are in addition to any other fees set forth in this schedule. The fees set forth herein do not exceed the estimated reasonable cost of providing the service.
1.10.702	Dog License Fee: Unaltered dog	\$55.00 for one year; \$160.00 for three years
1.10.704	Dog License Fee: Altered dog	\$25.00 for one year; \$70.00 for three years
1.10.706	Dog License Fee: Late penalty	\$20.00
1.10.708	Dog License Fee: Duplicate tag	\$10.00
1.10.710	Dog License Fee for Seniors (over 60)*: Unaltered dog	\$23.00 for one year; \$64.00 for three years
1.10.712	Dog License Fee for Seniors (over 60)*: Altered dog	\$10.00 for one year; \$25.00 for three years
1.10.720	Cat License Fee: Unaltered cat	\$20.00 for one year; \$55.00 for three years
1.10.722	Cat License Fee: Altered cat	\$8.00 for one year; \$19.00 for three years
1.10.724	Cat License Fee: Late penalty	\$7.00
1.10.726	Cat License Fee: Duplicate tag	\$5.00
1.10.728	Cat License Fee for Seniors (over 60)*: Unaltered cat	\$12.00 for one year; \$31.00 for three years
1.10.730	Cat License Fee for Seniors (over 60)*: Altered cat	\$8.00 for one year; \$19.00 for three years

* Discount for seniors 60 years of age or older; proof required

1.10.732	<i>ANIMAL CONTROL: REDEMPTION CHARGES</i>		
1.10.734	Redemption Charges: Type A (large or medium size animals; i.e., horses, cows, etc.)	Impound cost \$100.00 plus \$30.00 per day board cost plus \$100.00 trailering cost (per use)	
1.10.736	Reserved	Reserved	
1.10.738	Redemption Charges: Type C (dogs, cats) Impound costs: First offense	Altered: \$40.00 – licensed wearing tag \$55.00 – unlicensed or unregistered, no tag	Unaltered: \$65.00 – licensed or wearing tag \$85.00 - unlicensed or unregistered, no tag
1.10.740	Redemption Charges: Type C (dogs, cats) Impound costs: Second offense	Altered: \$90.00 – licensed wearing tag \$105.00 - unlicensed or unregistered, no tag	Unaltered: \$125.00 – licensed wearing tag \$140.00 - unlicensed or unregistered, no tag
1.10.742	Redemption Charges: Type C (dogs, cats) Impound costs: Third offense or more	Altered: \$135.00 - licensed wearing tag \$155.00 - unlicensed or unregistered, no tag	Unaltered: \$155.00 - licensed wearing tag \$180.00 - unlicensed or unregistered, no tag

1.10.744	Redemption Charges: Type C (dogs, cats) Impound costs: Fourth offense	Altered: \$180.00 - licensed wearing tag \$200.00 - unlicensed or unregistered, no tag	Unaltered: \$215.00 - licensed wearing tag \$240.00 - unlicensed or unregistered, no tag
1.10.746	Redemption Charges: Type C (dogs, cats) Impound costs: Fifth offense and up	Altered: \$225.00 - licensed wearing tag \$245.00 - unlicensed or unregistered, no tag	Unaltered: \$260.00 - licensed wearing tag \$285.00 - unlicensed or unregistered, no tag
1.10.748	Redemption Charges: (dogs), Board cost:	Altered: \$25.00	Unaltered: \$35.00
1.10.750	Redemption Charges: (cats), Board cost:	Altered: \$16.00	Unaltered \$22.00
1.10.752	Redemption Charges: Type D (small size animals; i.e., birds, hamsters)	\$20.00 impound cost plus \$10.00 per day board cost	

1.10.754	<i>ANIMAL CONTROL: SURRENDER, EUTHANASIA AND DEAD ON ARRIVAL DISPOSAL FEES</i>			
		Surrender	Euthanasia	Dead on Arrival
1.10.756	Dog or Cat	\$60.00	\$50.00	\$30.00
1.10.758	Rabbit or small animal	\$40.00	\$30.00	\$15.00
1.10.760	Litter of 3 or more	\$50.00	\$40.00	\$20.00
1.10.762	Bird/Fowl	\$20.00	\$15.00	\$20.00
1.10.764	All other companion animals	\$25.00	\$25.00	\$20.00

1.10.765	Farm Animals	\$60.00	\$60.00 – under 100 pounds \$125.00 – over 100 pounds	\$30.00 – under 100 pounds \$100.00 – over 100 pounds
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1.10.768	<i>ANIMAL CONTROL: MISCELLANEOUS FEES</i>			
1.10.770	Quarantine Fee			\$60.00
1.10.772	Dangerous Animal Permit Fee			\$300.00
1.10.774	Dangerous Animal Signage			\$15.00
1.10.776	Dangerous Animal Inspection Fee			\$100.00
1.10.778	Field Return Fee			\$40.00
1.10.780	Breeding Permit Fee			\$150.00
1.10.782	Fancier’s Permit and/or Exotic Pet Fee (Per household)			\$100.00
1.10.784	Return Check Fee			\$25.00
1.10.786	Service Dog Application Processing Fee			\$50.00

ARTICLE 2. SEVERABILITY

Each of the provisions of this resolution is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this resolution is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

ARTICLE 3. CEQA

The City Council finds that adoption of this resolution is not a "project," as defined in the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15378 as a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. It is also exempt pursuant to CEQA Guideline 15061(b)(3) as it can be seen with certainty that adoption of animal control fees will not cause an impact on the environment, either directly or indirectly.

ARTICLE 4. EFFECTIVE DATE

This resolution shall take effect immediately upon adoption.

Certification of Adoption

I certify that the foregoing Resolution No. 2024-__ was duly adopted at a regular meeting of the City Council of the Town of Colma held on January 24, 2024, by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
John Irish Goodwin					
Ken Gonzalez					
Carrie Slaughter					
Helen Fisicaro					
Joanne del Rosario					
<i>Voting Tally</i>					

Dated _____

John Irish Goodwin, Mayor

Attest: _____
Abigail Dometita, Interim City Clerk





STAFF REPORT

TO: Mayor and Members of the City Council
FROM: Farhad Mortazavi APA, City Planner
Lorraine Weiss, APA, Principal Planner
VIA: Daniel Barros, City Manager
DATE: January 24, 2024
SUBJECT: Ordinance Amending Chapter 5 Related to Zoning

RECOMMENDATION

Staff recommends that the City Council introduce and waive first reading of:

AN ORDINANCE AMENDING SUBCHAPTER 5.03 TO INCLUDE AND REMOVE SUBCHAPTERS 5.05, 5.06, 5.12, 5.15, 5.19, AND 5.20 OF CHAPTER 5 (PLANNING, ZONING, USE & DEVELOPMENT OF LAND & IMPROVEMENTS) OF THE COLMA MUNICIPAL CODE IN FURTHERANCE OF THE STATE HOUSING ELEMENT AND OTHER STATE LAW CHANGES, PURSUANT TO A PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT

EXECUTIVE SUMMARY

Per State law, the Zoning Code of the Town of Colma requires an update for it to be compatible with the Town General Plan (General Plan 2040) which was adopted on March 23, 2022. Similarly, the Zoning Code requires an update for it to be compatible with the Town's Housing Element Update, which was adopted on January 10, 2024. Collectively, these amendments constitute the Zoning Code Update (ZCU).

The ZCU was reviewed by the City Council at a study session on July 26, 2023, with the anticipation of the subsequent additions to the ZCU consistent with the Town's Housing Element Update (HEU), which was still under development at that time.

The Council's review and introduction of the ZCU will be followed by the second reading and adoption on February 14, 2024. Under this timeline, the Zoning Code Update would become effective 30 days later, on March 15, 2024.

FISCAL IMPACT

The Zoning Code Update is a 2022-2023 Capital Improvement Project continued into 2023-2024 and is anticipated to be adopted by February 14, 2024.

ENVIRONMENTAL

On March 23, 2022, pursuant to the California Environmental Quality Act ("CEQA") the Town certified an Environmental Impact Report (EIR) for the General Plan 2040. The EIR evaluated and disclosed the potential significant impacts that may arise from implementation of the 2040 General Plan. Pursuant to Public Resources Code section 21166 and CEQA Guidelines section 15162, Town staff has determined that no further environmental review is required for the ZCU, including those provisions of the ZCU concerning the Housing Element (adopted on January 10, 2024), as the previously certified EIR adequately addressed the environmental impacts of the Housing Element, as well as the proposed ZCU, which are not more intensive and as such will not result in any new or more severe significant environmental impact than were analyzed and disclosed in the certified EIR.

BACKGROUND AND PROCESS

Government Code Section 65860 requires a city's Zoning Ordinance to be consistent with the General Plan. The various land uses authorized by Colma Municipal Code Chapter 5 - Planning, Zoning, Use, Development of Land and Improvements - must be compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The Town of Colma's General Plan Update was adopted on March 23, 2022.

The Town has until January 31, 2024, to adopt a Zoning Code Update as required by the Town's Housing Element.

Changes to the Zoning Code with this Update

This Zoning Code Update incorporates changes based on the adopted General Plan Update and adopted Housing Element Update for consistency with these plan documents, provides a more logical order, and makes it a more user-friendly document than the current one. Many sections of the ZCU have been changed in terms of their placement and new sections have been added. For ease of understanding how the Zoning Code has been modified, Staff has prepared a Zoning Code Update Outline for reference as provided in Attachment 1. This outline provides the proposed section number, title of the section, and indicates whether the section is an existing section with its respective section number or if it is a new section and/or map.

Six sections of the existing Town of Colma Municipal Code have been inserted into the Zoning Code including: 1) XXXVII. Solar: Small Residential Rooftop (was subchapter 5.05), 2) XXIX. Tree Cutting & Removal (was subchapter 5.06), 3) XV. Inclusionary Housing & Affordable Housing (was subchapter 5.12), 4) XXXIII. Reasonable Accommodations in Housing (was subchapter 5.15), 5) IV. Accessory Dwelling Units (ADUs) (was subchapter 5.19), and 6) XXXI. Public Trees (was subchapter 5.20).

New Zoning Code Subchapters

New sections have been added to the Zoning Code for consistency with the newly adopted General Plan and the Housing Element, and for an improved user-friendly document. The new sections of the Zoning Code consist of the following:

- Definitions
- Zone Boundaries
 - This section includes a new Zoning Map and Permitted Land Use Table.
- Commercial Overlay Zoning District (COD)
- Design Review Combining Zone (DR)
 - A map, Objective Design Standards (ODDS), and Manufactured Single Residential Objective Design Standards, and Accessory Dwelling Units (ADUs) Objective Design Standards have been inserted into this section.
- Housing Element Overlay Zone District (HEO)
- Housing Density Bonus
- Off-Street Parking Regulations
 - A Parking Standards Table has been inserted into this section.
- Accessory Buildings
- Other Uses
- Historic Design Review
- Inclusionary and Affordable Housing

The purpose for each of the new subchapters is discussed in the next section below.

DISCUSSION

Definitions

A Definitions section has been inserted into the Zoning Code Update for easy reference of important terms.

Zone Boundaries

Both the updated Zoning Map, new Residential Zone Development Standards table, and new Land Use Table showing Permitted and Conditional Uses have been inserted into this section of the Zoning Code Update. All of these will provide easy reference.

COD - Commercial Overlay Zoning District

The COD designation has been added to the Zoning Code Update consistent with Colma's General Plan 2040 (adopted in March 232022), that encompasses two sites: 1) on the east side of Hillside Boulevard with Sand Hill Road to the north and Lawndale Boulevard intersection to the south, totaling 32.8-acre contiguous area; and 2) the three-acre triangular-shaped Italian Cemetery property located east of El Camino Real and west of BART right-a-way (Figure LU.3 of Land Use Element of the Town's General Plan 2040). The COD, in addition to the district's initial land use designation (G zoning district), provides the general uses that are allowed in the commercial zones including commercial establishments, and the Commercial ("C") Zone development standards would apply pursuant to Colma Municipal Code Section 5.03.133. The purpose of the

COD designation is to extend the commercial zone in the Town to the two enlisted sites for greater economic development opportunities.

DR - Design Review Combining Zone

A map has been inserted into this zoning district section to illustrate where the Design Review Combining Zone is within the Town of Colma.

Objective Design Standards (ODDS): Senate Bill (SB) 35, Government Code section 65913.4, establishes a developer-initiated process to streamline the approval process for housing developments (i.e., those proposing two or more multifamily units) meeting specific criteria, including affordable housing requirements and labor requirements. Such housing projects will be eligible for ministerial approval, which means that a project meeting that criteria would be exempt from environmental review under the California Environmental Quality Act (CEQA) and would only be subject to “objective” planning standards. In accordance with State law, ODDS have been inserted into the Zoning Code Update. In addition to ODDS, Manufactured Single Residential Objective Design Standards have been established for ‘R’ residential zone and ‘R-S’ Sterling Park Neighborhood single-family residential projects, and Accessory Dwelling Units (ADU) Objective Design Standards for lots in a residential or mixed-use zone have been developed and inserted in this chapter of the Zoning Code Update.

Housing Element Overlay (HEO) Zone District

The Town of Colma’s creation of a Housing Element Overlay Zoning District (HEO) is in response to the State of California’s required Regional Housing Needs Allocation mandating additional 202 units of mixed-income levels housing during the 2023 – 2031 period by removing constraints to developing housing on the five opportunity sites in town. The HEO was included in the adopted Housing Element Update in January 2023. The HEO designation will allow for greater housing densities and support mixed-use developments on the opportunity sites. A few of the most impactful standards include removing minimum parking requirements within a half mile of public transit and density bonus amendments that will allow for projects consistent with the densities described in the Town’s Land Use Element of the General Plan 2040. Additionally, as of July 1, 2023, the HEO will provide a pathway for ministerial approval related to multi-family projects that pay prevailing wages and meet specified affordable housing targets.

Housing Density Bonus

The State of California’s Density Bonus Law was enacted in 1979 to encourage the development of affordable housing. The law incentivizes developers to provide below market rate housing by allowing projects that provide affordable units to exceed normal density limits. Over time, the law has further promoted affordable housing by offering developers benefits such as cost reductions, waivers of development standards, and reductions in parking requirements. The most recent changes in the State’s Density Bonus Law became effective on January 1, 2023.

This chapter has been updated and inserted into the Zoning Code Update and shall apply to all zoning districts that permit housing at a prescribed density by the General Plan land use designation and/or zoning district, in accordance with State Density Bonus Law (Government

Code Section 65915 et seq.). This chapter works in conjunction with the Town's Inclusionary and Affordable Housing Ordinance - Town of Colma Municipal Code Chapter 5.12.

Off-Street Parking Regulations

For all zoning districts, the requirements for off-street parking and loading spaces for vehicles is provided in this subchapter. In addition, a Parking Standards Table has been included in this subchapter which lists the minimum parking requirements for each land use or activity.

Accessory Buildings

This subchapter defines detached accessory structures on private property and establishes development standards for nonexempt structures.

Other Uses

This is a general subchapter where a number of other uses and regulations have been included, consisting of the following: 1) Minor, short-term and temporary uses; 2) Home office use; 3) Home occupation use; 4) No net reduction in housing units; 5) Regulation of use of personal, medical, and commercial marijuana; 6) Restrictions and landscaping along El Camino Real; 7) Restrictions Applicable to Recreational Vehicles and Commercial Coaches; 8) Restrictions Applicable to Dumps; and 9) Restrictions Applicable to Retail Merchandise Unit Vendors.

Historic Design Review

A Historic Design Review subchapter has been included in the Zoning Code Update. This new subchapter includes procedures for projects that require a land use or building permit which effect the exterior of a historic structure or property.

Inclusionary and Affordable Housing

An Inclusionary and Affordable Housing subchapter has been updated with the Zoning Code Update. Inclusionary zoning is a tool used to integrate affordable units within market rate developments. This revised subchapter implements State law, Government Code Section 65580, which declares that local governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing and to make adequate provision for the housing needs of all economic segments of the community. This subchapter also implements the housing element of the General Plan, which calls for the adoption of an inclusionary housing program in order to expand and protect opportunities for households of all income levels to find housing in the Town of Colma and afford a greater choice of rental and homeownership opportunities. In addition, this subchapter advances the Town's legitimate interest in providing additional housing affordable to all income levels and dispersed throughout the Town, and achieving an economically balanced community by requiring construction of moderate income housing.

Next Steps

The Zoning Code Update's second reading and adoption is scheduled for February 14, 2024. Under this timeline, the Zoning Code Update would become effective 30 days later, on March 15, 2024.

CONCLUSION

Staff recommends that the City Council, after presentation by staff, receive comments from the public, introduce and waive the first reading of the Ordinance.

ATTACHMENTS

- A. Ordinance
- B. Zoning Code Update
- C. Outline

ORDINANCE NO. ---**OF THE CITY COUNCIL OF THE TOWN OF COLMA****AN ORDINANCE AMENDING SUBCHAPTER 5.03 TO INCLUDE AND REMOVE SUBCHAPTERS 5.05, 5.06, 5.12, 5.15, 5.19, AND 5.20 OF CHAPTER 5 (PLANNING, ZONING, USE & DEVELOPMENT OF LAND & IMPROVEMENTS) OF THE COLMA MUNICIPAL CODE IN FURTHERANCE OF THE STATE HOUSING ELEMENT AND OTHER STATE LAW CHANGES, PURSUANT TO A PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT**

The City Council of the Town of Colma does hereby ordain as follows:

ARTICLE 1. RECITALS.

The City Council of the Town of Colma finds:

(a) Pursuant to the Town's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the City Council has the authority to enact and enforce ordinances and regulations for the public peace, health, safety, and welfare of the Town and its residents; and

(b) The City Council wishes to amend and update the Town's planning, zoning, and land use regulations codified at Subchapters 5.03, 5.05, 5.06, 5.12, 5.15, 5.19, and 5.20 of Chapter 5 (Planning, Zoning, Use & Development of Land & Improvements) of the Colma Municipal Code to ensure compatibility with the Town's General Plan (General Plan 2040), which was adopted on March 23, 2022 and the Town's Housing Element Update, which was adopted on January 10, 2024 ("Zoning Code Update"); and

(c) This Zoning Code Update will amend Subchapter 5.03 to include and remove Subchapters 5.05, 5.06, 5.12, 5.15, 5.19, and 5.20 of Chapter 5 (Planning, Zoning, Use & Development of Land & Improvements) of the Colma Municipal Code; and

(d) The Zoning Code Update is necessary to ensure consistency with the goals and policies specified in the Town of Colma General Plan, and to reflect recent changes to applicable State land use, planning, and zoning law; and

(e) The City Council conducted a duly noticed public hearing on January 24, 2024, at which time the City Council fully considered all oral and written testimony and facts and opinions offered at the aforesaid public hearing; and

(f) On March 23, 2022, pursuant to the California Environmental Quality Act ("CEQA") the Town certified an Environmental Impact Report (EIR) for the General Plan 2040. The EIR evaluated and disclosed the potential significant impacts that may arise from implementation of the General Plan 2040. Pursuant to Public Resources Code section 21166 and CEQA Guidelines section 15162, Town staff has determined that no further environmental review is required for

the Zoning Code Update, including those provisions of the Zoning Code Update concerning the Housing Element, adopted on February 14, 2024, as the previously certified EIR adequately addressed the environmental impacts of the Housing Element, as well as the proposed Zoning Code Update, which are not more intensive and as such will not result in any new or more severe significant environmental impact than were analyzed and disclosed in the certified EIR; and

(g) The requested amendments are desirable for the development of the community because it is consistent with and/or implements the General Plan goals and policies, including:

1. Goal LU-1: New development should complement existing development to create a distinctive community.
2. Policy LU-1-3: Balance New Development with Existing Setting. Prioritize new and higher density development consistent with the town's Planning Areas to ensure new development is context sensitive and contributes to creating a strong sense of place. New development shall serve to protect and enhance the positive aesthetic qualities of the town and each geographic area.
3. Policy LU-1-5: Clear and Predictable Development Standards. Strive to adopt and communicate clear and predictable development standards to ensure new development meets the expectations of the Town.
4. Policy LU-3-1: Quality of Colma's Residential Neighborhoods. Ensure that all new construction, renovation, or remodeling projects meet the design standards of the Town.
5. Goal M-8: Provide a comprehensive parking strategy that considers alternative transportation modes and connections to efficiently serve the needs of residents, visitors, and businesses.
6. Policy M-8-1: Parking Standards. Reevaluate minimum parking standards to account for emerging mobility trends, such as shared mobility, micromobility, autonomous vehicles, and future technology changes. Consider reducing parking requirements for mixed-use developments.
7. Policy M-8-2: Flexible Residential Parking Standards. Establish flexible parking standards, review residential parking requirements in the Zoning Ordinance, and consider new parking provisions and exceptions with the objective of "right-sizing" parking areas and reducing the reliance on automobile use; and

(h) This Ordinance is a matter of citywide importance and necessary for the preservation and protection of the public peace, health, safety, and welfare of the community and is a valid exercise of the local police power and in accord with State law; and

(i) All legal prerequisites to the adoption of this Ordinance have occurred.

ARTICLE 2. INCORPORATION OF RECITALS.

The City Council hereby finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

ARTICLE 3. AMENDMENT.

The Colma Municipal Code Subchapter 5.03 is hereby amended as set forth in the attached Exhibit "A," incorporated by this reference and Subchapters 5.05, 5.06, 5.12, 5.15, 5.19, and 5.20 of Chapter 5 (Planning, Zoning, Use & Development of Land & Improvements) of the Colma Municipal Code are hereby deleted in their entirety and staff is directed to eliminate those subchapters from the Municipal Code and make corresponding changes to any table of contents to the Municipal Code.

ARTICLE 4. SEVERABILITY. Each of the provisions of this Ordinance is severable from all other provisions. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE 5. CEQA. On March 23, 2022, pursuant to the California Environmental Quality Act ("CEQA") the Town certified an Environmental Impact Report (EIR) for the General Plan 2040. The EIR evaluated and disclosed the potential significant impacts that may arise from implementation of the General Plan 2040. Pursuant to Public Resources Code section 21166 and CEQA Guidelines section 15162, The City Council finds and determines that no further environmental review is required for the Zoning Code Update, including those provisions of the Zoning Code Update concerning the Housing Element, adopted on February 14, 2024, as the previously certified EIR adequately addressed the environmental impacts of the Housing Element, as well as the proposed Zoning Code Update, which are not more intensive and as such will not result in any new or more severe significant environmental impact than were analyzed and disclosed in the certified EIR.

ARTICLE 6. NOTICE OF DETERMINATION. Town staff is hereby authorized and directed to prepare, file, and post a Notice of Determination pursuant to CEQA with respect to the adoption of this Ordinance.

ARTICLE 7. EFFECTIVE DATE. This Ordinance, or a summary thereof prepared by the City

Attorney, shall be posted on the three (3) official bulletin boards of the Town of Colma within 15 days of its passage and is to take force and effect thirty (30) days after its passage.

I certify that the foregoing Ordinance No. --- was duly introduced at a regular meeting of the City Council of the Town of Colma held on January 24, 2024 and duly adopted at a regular meeting of said City Council held on February 14, 2024

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor					
Ken Gonzalez, Vice Mayor					
Carrie Slaughter					
Helen Fiscaro					
Joanne F. del Rosario					
<i>Voting Tally</i>					

Dated _____

John Irish Goodwin, Mayor

Attest: _____
Abigail Dometita, Interim City Clerk

EXHIBIT "A"



DRAFT January 22, 2024

CHAPTER FIVE: ZONING

Subchapter 5.03: Zoning Ordinance

5.03.010 Title.

This subchapter shall be known as the "Zoning Ordinance" of the Town of Colma.

[*History:* formerly § 5.301; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

5.03.020 Purpose.

There is hereby adopted a zoning or districting plan for the Town of Colma. This plan is adopted to promote and protect the public health, safety, peace, morals, comfort and general welfare. It consists of the establishment of various zones, including therein all the territory within the boundaries of said town, within some of which zones it shall be lawful and within some of which zones it shall be unlawful to construct, reconstruct, alter, enlarge, move, or maintain certain buildings or to use certain lands or buildings, and it further consists of appropriate regulations to be enforced in such zones, all as set forth in this ordinance.

[*History:* formerly § 5.302; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

5.03.030 Definitions generally.

For the purpose of this subchapter, unless the context otherwise requires, the following definitions shall be used in the interpretation of this subchapter.

"*Accessory dwelling unit*" or "*ADU*" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and

A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

"*Accessory structure*" means a structure that is accessory and incidental to a dwelling located on the same lot.

"*Antennae sleeve flag*" means a flag made out of fabric or plastic attached to a sleeve or tube which is placed over the antennae of an automobile as a means of drawing attention to the vehicle.

"*Area of a sign*" means the entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any

frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary support or uprights on which such sign is placed but including any sign tower. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

"*Attached to a building*" means the sign is supported, in whole or in part, by a building.

"*Balloon*" means any object enlarged or inflated by less than five cubic feet of air or gases.

"*Banner*" means any sign constructed of fabric or sheeting that is mounted between two poles or attached to a structure by two or more edges and intended to be displayed for a limited time (less than 60 consecutive days).

"*Bunting*" means any woven fabric in single or multiple colors used for decoration.

"*Changeable*" means any sign, banner, bunting or inflatable that is used for a short term sales promotion and not intended for permanent display.

"*Commercial sign*" means any sign with wording, logo or other representation that directly or indirectly names, advertises or calls attention to a product or service for purchase or sale, or to any business or organization that is engaged in, or plans to engage in, the sale or purchase of a product or service.

"*Complete independent living facilities*" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

"*Cutout letter sign*" means a fascia sign consisting of individual cutout letters separately attached to the building wall.

"*Density bonus*" means a density increase over the otherwise allowable maximum residential density granted pursuant to Government Code Section 65915 and this Code.

"*Directly illuminated sign*" means a sign designed to give forth artificial light directly (or through transparent or translucent material) from a source of light inside or on the sign.

"*Efficiency kitchen*" means a kitchen that includes each of the following:

- A. A cooking facility with appliances.
- B. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.

"*Electronic submittal*" means the submission of materials via electronic mail.

"*Fascia sign*" means a sign attached flush to the exterior wall of a building so that copy is meant to be viewed along sight lines perpendicular to the wall of the building.

"*Flag string*" means a series of cut pieces of cloth, plastic or other material strung together and mounted between two poles or attached to a structure by two or more edges and intended to be displayed for a limited time (less than 60 consecutive days).

"*Freeway sign*" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only a limited or restricted right or easement of access, the precise route for which has been determined and designated as a freeway by an authorized agency of the State or a political subdivision thereof. The term shall include the main traveled portion of the traffic way and all ramps and appurtenant land and structures.

"*Height of a sign*" means the vertical distance from the uppermost point used in measuring the area of a sign, as defined in Section) 5.03.030, to the ground immediately below such point or to the level of the upper surface of the nearest curb of a street, alley or highway (other than a structurally elevated roadway), whichever measurement permits the greater elevation of the sign.

"*Historic resource*" means structures and sites which have one or more of the following characteristics:

1. A reminder of past years, events and persons important in local, state or national history;
2. An example of once common structure with a design that specifically relates to its now rare or nonexistent first use or business;
3. A unique or irreplaceable asset to the Town or a neighborhood, which asset enriches human life and/or serves an educational benefit by providing future generations examples of the physical surroundings of the past;
4. An example essential to maintaining the overall historic character of a larger area;
5. A structure having architectural significance. A structure determined to have architectural significance shall be one which is valuable as an example of:
 - a. Architectural design that is attributable to an historic period;
 - b. A commonly identified architectural style or method of construction;
 - c. Architectural design that is unusual, beautiful or ingenious;
 - d. A notable work of a major builder or designer;
 - e. Unusual quality of workmanship;
 - f. Unusual use of construction materials.

"Indirectly illuminated sign" means a sign illuminated with a light directed primarily toward it and so shielded that no direct rays from the light are visible elsewhere than on the parcel where the sign is located. If not effectively so shielded, such sign shall be deemed to be a directly illuminated sign.

"Inflatable" means any shaped object enlarged or inflated by more than five cubic feet of air or gases.

"Junior accessory dwelling unit" or "JADU" means a residential unit that is not more than 500 square feet in size, is contained entirely within an existing or proposed single-family structure, includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and includes an efficiency kitchen, as defined above.

"Large family day care home" means 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.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

"Low barrier navigation centers" means a housing or shelter in which a resident who is homeless or at risk of homelessness may live temporarily while waiting to move into permanent housing.

"Master sign program" means a plan indicating the location, size and type of signs for an entire property or series of properties.

"Monument sign" means a sign the bottom edge of which lies on the ground. A wood supported or wood framed sign which, to avoid soil contact, retains a clearance from the ground of no more than six inch clearance.

"Non-commercial sign" means any sign that is not a commercial sign.

"Non-conforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

"Non-illuminated sign" means a sign which is not artificially illuminated, either directly or indirectly.

"Objective design standards" means those that involve no personal or subjective judgement by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and public official prior to submittal.

"Off-site sign" means a sign which directs attention to a business, commodity, industry or other activity which is sold, offered or conducted elsewhere than on the premises where the sign is located, or which is sold, offered or conducted on such premises only incidentally if at all.

"*On-site sign*" means a sign which directs attention to a business, commodity, service, industry or other activity which is sold, offered, or conducted, other than incidentally, on the premises upon which such sign is located or to which it is affixed. Where a number of commodities with different brand names or symbols are sold on the premises, up to 1/3 of the area of an on-site sign, up to 25 square feet, may be devoted to the advertising of one or more of those commodities by brand name or symbol as an accessory function of the on-site sign, and provided also that any limits which may be imposed by this Code on the area of individual signs and the area of all signs on the property are not exceeded. On-site signs shall also include signs which present a non-commercial message.

"*Outdoor decorations*" means, pennants, banners, streamers, ribbons or similar displays used to create a festive atmosphere.

"*Passageway*" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

"*Pole sign*" means a sign, no part of which is supported by a building. The sign support shall consist of a pole or sign tower. Regulations for pole signs shall not apply to monument signs.

"*Projection*" means the horizontal distance by which the farthest point used in measuring the area of a sign, as defined in section 5.30.030, extends beyond a street property line or a building setback line. A sign placed flat against the wall of a building parallel to a street or alley shall not be deemed to project for purposes of this definition. A sign on an awning or canopy shall be deemed to project to the extent that such sign extends beyond a street property line or a building setback line.

"*Prominent display vehicles*" means vehicles positioned on platforms, scissor ramps, in a showroom or area of high street visibility in order to attract customers.

"*Proposed dwelling*" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

"*Public transit*" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

"*Roof sign*" means a sign extending in whole or in part beyond the roof line of a building, or erected or painted on or over the roof covering any portion of a building, whether supported on the roof or on an independent structural frame or sign tower, or located on the side or roof of a penthouse, roof tank, roof shed, elevator housing or other roof structure.

"*Sale or lease sign*" means a sign which serves only to communicate the availability for sale, lease or rental the lot or building on which it is placed, or some part thereof.

"*Shopping center*" means a group of stores and shops on a single parcel or contiguous parcels of land which holds itself out as a central retail market.

"*Sign*" means any structure, part thereof, or device or inscription which is located upon, attached to, or painted, projected or represented on any land or right-of-way, or on the outside of any

building or structure, including an awning, canopy, marquee or similar appendage, or affixed to the glass on the outside or inside of a window so as to be seen from the outside of the building, and which displays or includes any numeral, letter, word, model, banner, emblem, insignia, symbol, device, light, trademark or other representation used as, or in the nature of, any announcement, advertisement, attention-arrester, direction, warning or designation, by or of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise or industry. A "sign" is composed of those elements included in the area of the sign as defined in section 5.30.030 of this Code, and in addition the supports, uprights and framework of the display. Except in the case of off-site signs, two or more faces shall be deemed to be a single sign if such faces are contiguous on the same plane, or are placed back-to-back to form a single structure and are at no point more than two feet from one another.

"*Sign field*" means the background to which the sign message is contrasted.

"*Sign permit*" means a permit issued pursuant to section 5.30.340 to permit applicable signs.

"*Sign program*" means a Master Plan describing overall sign design, lettering, sign placement, materials and size standards for signs on a development site.

"*Sign tower*" means a tower, whether attached to a building, free-standing, or an integral part of a building, which has a sign attached thereto.

"*Single Room Occupancy (SRO)*" means a form of housing that is typically aimed at residents with low or minimal incomes who rent small, furnished single rooms with a bed, chair, and sometimes a small desk.^[1] SRO units are rented out as permanent residence and/or primary residence^[2] to individuals, within a multi-tenant building where tenants share a kitchen, toilets or bathrooms.

"*Small residential rooftop solar energy system*" means a solar energy system that meets all of the following: (1) is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal; (2) conforms to all applicable State fire, structural, electrical, and other building codes as adopted or amended by the Town, and all State and local Health and Safety standards as adopted or amended by the Town; (3) is installed on a single or duplex family dwelling; and (4) the panel or module array does not exceed the maximum legal building height as defined by the Town.

Solar energy system means a solar energy system as defined in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or re-designated from time to time.

Specific, adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

"*Street property line*" means, for purposes of the Signs subchapter only, any line separating private property from either a street or an alley.

"*Supportive housing*" is a combination of housing and services intended as a cost-effective way to help people live more stable, productive lives,

"*Tandem parking*" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

"*Temporary non-commercial sign*" means a temporary sign with a non-commercial message.

"*Temporary sign*" means any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wall board, or other light materials, with or without frames, that is not designed or intended to be placed permanently.

"*Temporary signage*" means any sign, banner, bunting, balloon, or outdoor decoration to be displayed for a period of three days or less.

"*Under canopy sign*" means a sign attached under a canopy or soffit of a building so located as to be viewed by pedestrians using the sidewalk fronting the premises.

"*Vehicle price sign*" means any sign painted or affixed to the inside or outside of window of a vehicle advertising the price or features only.

"*Wind sign*" means any sign composed of two or more banners, flags, or other objects, mounted serially and fastened in such a manner as to move upon being subjected to pressure by wind or breeze.

"*Window sign*" means any sign painted or affixed to the inside or outside of a building window.

5.03.040 General Prohibition.

No person may use, design, or intend to be used, any building or land in the Town, except for the purposes specified in, and in compliance with, the provisions of this subchapter.

[*History:* formerly § 5.303; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

5.03.050 Zones and Boundaries Thereof.

(a) The following land use zones shall be established in the Town:

- G - Golf and Cemetery Zone
- R - Residential
- R-S - Neighborhood Residential [Ord. 536, 7/8/98]
- C - Commercial
- P - Public
- E - Executive, Administrative
- T - Transit

- F - Flood Hazard/Safety
- DR - Design Review
- DR(s) - Design Review – Spanish/Mediterranean

(b) The zones aforesaid and the boundaries of such zones are shown upon a map filed with the City Clerk and designated "General Plan Land Use, Town of Colma, April 2008 Zoning Map". Said map and all notations, references and other information shown thereon shall be and hereby is incorporated by reference in this ordinance as if fully set forth herein and as provided in Section 5.03.060.

[History: formerly § 5.310, ORD. 234, 3/14/79; ORD. 290, 8/10/83; ORD. 321, 7/10/85; ORD. 374, 9/14/88; ORD. 409, 3/14/90; ORD. 536, 7/8/1998; ORD. 557, 8/18/1999; ORD. 573, 4/12/00, ORD. 588, 8/15/2001; ORD 609, 12/10/03; ORD. 610, 1/14/04; ORD. 627, 4/13/05; ORD. 638, 12/14/05; ORD. 668, 5/14/08]

5.03.060 Zone Boundaries.

Where uncertainty exists as to the boundaries of any zone shown on said "Zoning Map", the following rules shall apply:

- (a) Where such boundary is indicated as approximately following a street or alley line, such street or alley line shall be deemed to be such boundary.
- (b) Where such boundary is indicated as approximately following a lot line, such lot shall be deemed to be such boundary.
- (c) Where uncertainty exists, the City Council shall, by written declaration, determine the location of the zone boundary.

Town of Colma Zoning Map



- Town Limits
- Parcel Boundary



A detailed zoning map of the Sterling Park Neighborhood is included in this document.



Zone

- 'G' - Golf and Cemetery
- 'R' - Residential
- 'R-S' - Neighborhood Residential
- 'C' - Commercial
- 'P' - Public
- 'E' - Executive, Administrative
- 'PD' - Planned Development

Overlay Zone

- May be combined with all base zones.
- 'COD' - Commercial Overlay District
 - 'T' - Transit
 - 'F' - Flood Hazard/ Safety Overlay
 - 'HEO' - Housing Element Overlay

The 'DR' - Design Review Combining Zone is shown on a separate map included in this document.

Amendments occurring since the 1999 General Plan Update:

1. Ordinance No. 557 (July 14, 1999).
2. Ordinance No. 574 (May 10, 2000).
3. Ordinance No. 579 (July 14, 2000).
4. Ordinance No. 580 (June 14, 2000).
5. Ordinance No. 588 (August 15, 2001).
6. Ordinance No. 609 (November 5, 2003).
7. Ordinance No. 610 (December 10, 2003).
8. Ordinance No. 627 (April 28, 2005).
9. Ordinance No. 668 (April 28, 2005).
10. Ordinance No. 725 (July 11, 2013).
11. Ordinance No. 742 (May 13, 2015).
12. Ordinance No. 780 (December 14, 2016).
13. Ordinance No. 781 (June 13, 2018).

Table 1: Residential Zone Development Standards

Standard	R - Residential	R-S Sterling Park Neighborhood	Mixed-Use and Multifamily Residential
Front Setback (feet)	15	15' property line to front face of dwelling, 19' from front property line to front face of garage. At least 60% of front setback area must be devoted to landscaping.	See 5.03.082
Rear Setback (feet)	25% total area of lot, not exceed 25' or 15' (see 5.03.082(3))	25' for two story, 15' for one story	See 5.03.082
Side Setback (feet)	10% width of lot or 10', whichever is less	10% width of lot or 10', whichever is less	See 5.03.082
Minimum Average Width (feet)	33.33'	33.33'	-
Minimum Depth (feet)	100'	100'	-
Maximum Structure Height (feet)	36'	27'	-
Minimum Structure Width (feet)	20'	20'	-
Maximum units/acre	13 du/ac	-	-
Total Floor Area	-	-	-
Parking	See Section 5.03.232 and Parking Standards Table 4	See Section 5.03.232 and Parking Standards Table 4	See Section 5.03.232 and Parking Standards Table 4

Table 2: Non-Residential Zone Development Standards

Standard	C - Commercial	P - Public	E - Executive	PD- Planned Development
Front Setback (feet)	5' 20' (Commercial Center)	See section 5.03.163	5' minimum 30' El Camino Real	See section 5.03.187
Rear Setback (feet)	5' 20' (Commercial Center)	See section 5.03.163	5' minimum	See section 5.03.187
Side Setback (feet)	5' 20' (Commercial Center)	See section 5.03.163	5' minimum	See section 5.03.187
Minimum Average Width (feet)	33.33'	See section 5.03.163	33.33'	See section 5.03.187
Minimum Depth (feet)	100'	See section 5.03.163	100'	See section 5.03.187
Building Lot Coverage (maximum %)	50'	See section 5.03.163	50'	See section 5.03.187
Maximum Structure Height (feet)	40' 42' (Mission Rd.)	See section 5.03.163	36'	See section 5.03.187
Minimum Structure Width (feet)	-	See section 5.03.163	-	See section 5.03.187
Lot Coverage	50% or less	-	50% or less	See section 5.03.187
Private Open Space	-	-	-	100 sq. ft. minimum for each dwelling unit
Parking	See Parking Standards Table 4	See Parking Standards Table 4	See Parking Standards Table 4	See Parking Standards Table 4

Table 3: Land Use Table – Permitted and Conditional Uses

<p>"P"= Permitted Use "C"= Conditional Permitted Use "A"= Administratively Permitted "-" = Not Permitted "*" = Non-conforming use "#" = Legal Non-conforming use</p>							
LAND USES	ZONES						
	G	R	R-S	C	P	E	PD
Accessory building	-	P	P	P	-	-	P
Accessory building less than 120 square feet in projected roof area and less than six feet in height	-	P	P	-	-	-	-
Accessory building that exceeds 120 square feet in area or is greater than six feet tall	-	A	A	-	-	-	-
Accessory or Junior Accessory Dwelling Unit	-	P	P	P	-	-	-
Administrative offices	-	-	-	-	-	-	C
Agriculture or flower growing greenhouses or shade structures	C	-	-	-	-	P	-
Agriculture, which is primarily open field	P	-	-	-	-	-	-
Cemetery corporation yard	C	-	-	-	-	-	-
Cemetery or memorial park	P	-	-	-	-	P	-
Churches	-	-	-	-	-	-	-
Commercial and Light Industrial Uses	-	-	-	-	-	-	-
Commercial center	-	-	-	C	-	-	-
Commercial establishment	-	-	-	C	-	-	-
Communication structures	C	-	-	C	-	-	-
Community park and public buildings	-	-	P	-	-	-	-
Crematorium	C	-	-	-	-	-	-
Customarily Incident to a cemetery or memorial park use	C	-	-	-	-	-	-
Emergency Shelter	-	-	-	P	-	-	-
Existing multiple residence buildings	-	-	*	-	-	-	-

Table 3: Land Use Table – Permitted and Conditional Uses

<p>"P"= Permitted Use "C"= Conditional Permitted Use "A"= Administratively Permitted "-" = Not Permitted "*" = Non-conforming use "#" = Legal Non-conforming use</p>							
LAND USES	ZONES						
	G	R	R-S	C	P	E	PD
Expansions to existing units	-	-	-	-	-	-	-
Firewood yard	C	-	-	-	-	-	-
Floriculture or agriculture	C	-	-	-	-	P	-
Flower Shop	C	-	-	-	-	C	-
Golf Course	P	-	-	-	-	-	-
Golf Driving Range	P	-	-	-	-	-	-
Home occupation	-	C	C	-	-	-	-
Home Office or Cottage Food Operation	-	P	P	-	-	-	-
Landscape contractors yard	C	-	-	-	-	-	-
Legal second units	-	-	#	-	-	-	-
Light industrial establishment	-	-	-	C	-	-	-
Low-Barrier Navigation Centers		P		P			P
Manufactured home	-	P	P	-	-	-	-
Medical Service Offices	-	-	-	-	-	C	-
Monument Shop	C	-	-	-	-	C	-
Multiple dwelling up to six units	-	P	-	-	P	-	-
Multiple housing developments	-	-	-	-	-	-	C
Municipal supported senior housing	-	-	-	-	P	-	-
Neighborhood and community centers	-	-	-	-	-	-	C
New second units	-	-	-	-	-	-	-
Nurseries	C	-	-	-	-	C	-
Off-site vehicle storage of automobile dealership inventory	C	-	-	-	-	-	-
Other facilities	-	-	*	-	-	-	-

Table 3: Land Use Table – Permitted and Conditional Uses

"P"= Permitted Use "C"= Conditional Permitted Use "A"= Administratively Permitted "-" = Not Permitted "*" = Non-conforming use "#" = Legal Non-conforming use							
LAND USES	ZONES						
	G	R	R-S	C	P	E	PD
Other uses	-	-	-	C	-	C	-
Professional Business Offices	-	-	-	-	-	C	C
Public buildings and parks		-	-	-	P		-
Residential planned development	-	C	-	C	-	-	-
Restaurants	-	-	-	-	-	C	-
Retail Merchandising Unit	-	-	-	C	-	-	-
Retail Space to a restaurant or bar				C			-
Schools	-	-	-	-	-	-	-
Single family dwelling	-	P	P	C	-	-	C
Single-Room Occupancy Housing	-	-	P	P	-	-	-
Small and large family day care homes	-	P	P	-	-	-	-
Supportive housing	-	P	P	C	-	-	-
Transitional housing	-	P	P	C	-	-	-
Use customarily incident to a cemetery or memorial park use	C	-	-	-	-	-	-
Use customarily incident to a golf course	C	-	-	-	-	-	-
Use customarily incident to agriculture use	C	-	-	-	-	-	-
Warehouses	-	-	*	-	-	-	-
Warehouse or light industrial space to auto repair, office, or where hazardous material use requires review by San Mateo County Environmental Health Department				C			-

Table 3: Land Use Table – Permitted and Conditional Uses

"P"= Permitted Use "C"= Conditional Permitted Use "A"= Administratively Permitted "-" = Not Permitted "*" = Non-conforming use "#" = Legal Non-conforming use							
LAND USES	ZONES						
	G	R	R-S	C	P	E	PD
Existing commercial building or occupy tenant space within an existing commercial building, within same Building Code occupancy classification of existing building, does not require building modifications, will not exceed the available on-site parking	-	-	-	A	-	-	-
Wireless Communications Facility	C	-	-	-	C	-	-

[History: formerly § 5.311; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

I. "G"- Golf and Cemetery Zone

5.03.070 "G" Zone - Regulations Established.

The regulations herein are applicable to properties zoned Golf and Cemetery and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.071 "G" Zone - Permitted Uses.

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

- (1) A cemetery or memorial park;
- (2) Agriculture, which is primarily open field;
- (3) A golf course;
- (4) A golf driving range.

(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) Wireless Communications Facilities, as regulated in Subchapter 5.17;

(5) Off-site vehicle storage of automobile dealership inventory.

(c) The following uses may be exempted from review by the City Council on land located in the "G" Zone upon administrative review and approval:

(1) A retail flower use within cemetery grounds incidental to the "G" Zone;

(2) A structure no greater than 120 square feet in size that is not visible from the public right-of-way.

(3) A retail flower use within cemetery grounds incidental to the "G" Zone.

(4) Any other uses or structures incidental to cemetery use.

[*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; ORD. 728, 10/9/13; ORD. 770, 3/22/17; ORD. 772, 7/26/17]

5.03.072 "G" – Golf and Cemetery Zone – Development Standards.

Any proposed development in the "G" Zone shall comply with the standards in the Design Review (DR) Overlay District as contained in Section 5.03.152 in addition to the following requirements:

(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, golf course, or off-site vehicle storage of automobile dealership inventory.

(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 shall

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" Zone.

(d) Buffering Regulations. A crematorium shall be located such that the retort vents are no closer than 650 feet to the nearest residence and shall be sited, using topography and landscaping, so that the retort vents and delivery entrance cannot be seen from any public right-of-way. If the building can be seen from any public right-of-way, crematoriums shall be incorporated into the design of buildings such as chapels and mausoleums so that the cremation aspect is not apparent. Any crematorium existing prior to the effective date of this ordinance may be maintained and its equipment upgraded provided no retorts are added and the proposed work does not result in greater visibility, from any public right-of-way, of the existing retort vent(s) and delivery entrance.

(e) As to any off-site vehicle storage of automobile dealership inventory, the following restrictions shall apply:

(1) The vehicle inventory proposed to be stored shall be limited to vehicles less than 5 years old and in operable condition;

(2) The location is not in active cemetery use;

(3) The area proposed for vehicle storage shall not be readily visible from any public street in the Town of Colma, either due to existing physical barriers or through screening proposed to be installed;

(4) The vehicle storage site shall maintain, and shall not impair, full emergency vehicle access to the site and surrounding areas;

(5) The area proposed for vehicle storage shall be paved or improved with a minimum three inch gravel surface;

(6) Off-loading of vehicles from vehicle carriers shall not occur at the vehicle storage site and may only occur where vehicles are normally delivered to the auto dealership;

(7) The vehicle storage site shall prepare and implement a security plan; and

(8) The proposed off-site vehicle storage shall not generate significant traffic impacts.

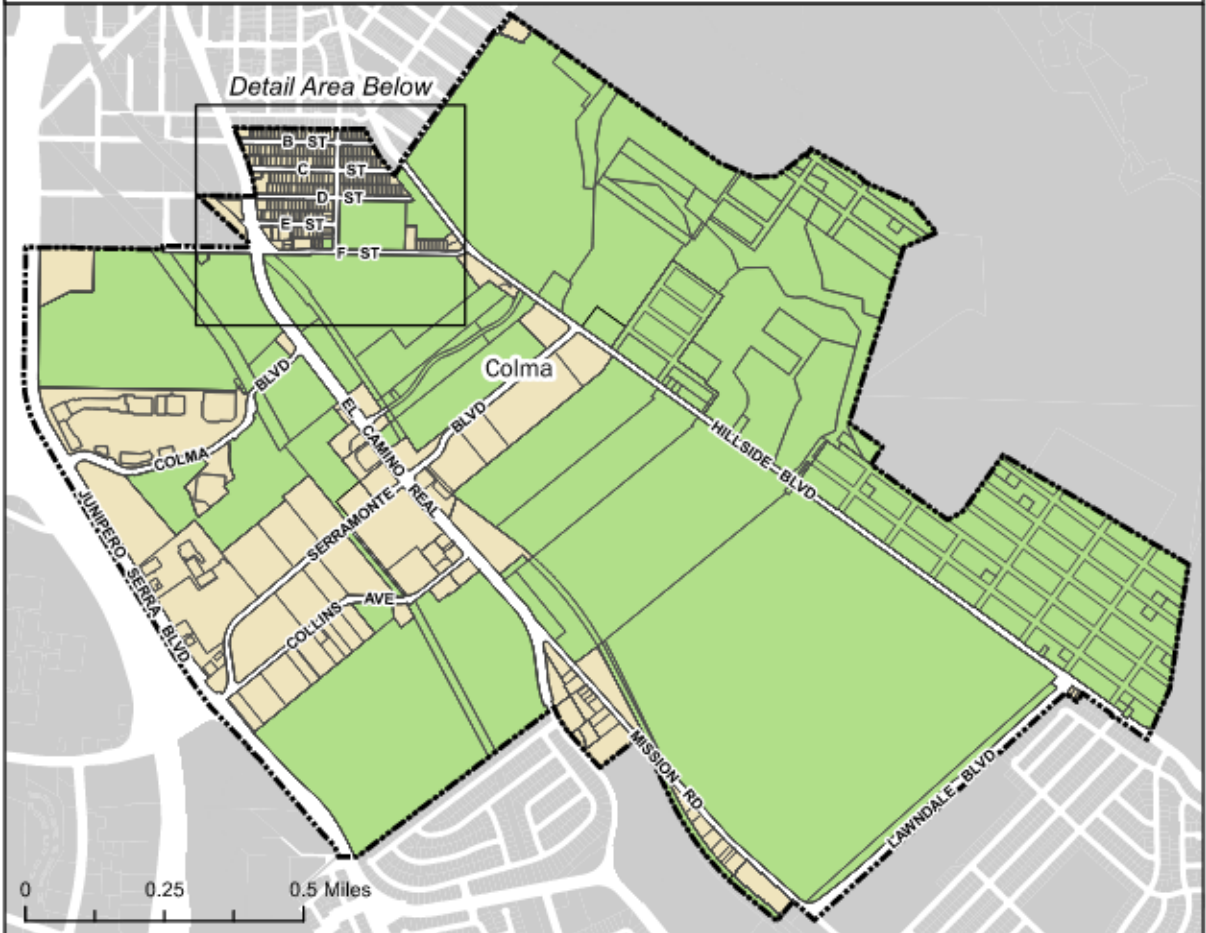
(f) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-sensitive land uses.

(g) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.

(h) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.

[*History:* formerly § 5.330, ORD. 234, 3/14/79; ORD. 5/10/95; ORD. 325, 11/13/85; ORD. 520, 12/10/97; ORD. 638, 12/14/05; ORD. 728, 10/9/13; ORD. 772, 7/26/17]

Town of Colma Golf and Cemetery Zone Map



0 0.25 0.5 Miles

-  Town Limits
-  Parcel Boundary

Golf and Cemetery Zone

-  'G' - Golf and Cemetery



Comprehensive zoning information is shown on separate maps included in this document.



0 500 1,000 Feet

Prepared by CSG Consultants, Inc., January 2024.

II. "R"- Residential Zone

5.03.080 Regulations Established.

The regulations herein are applicable to properties zoned Residential and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.081 Permitted Uses.

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

- (1) A single family dwelling;
- (2) A manufactured home;
- (3) A "small family day care home", as defined in the Health and Safety Code providing family day care to six or fewer children;
- (4) A multiple dwelling up to six units, provided that the proposed residential density does not exceed that specified in the Colma General Plan;
- (5) Accessory dwelling units as permitted in Section 5.03.100;
- (6) Group homes for six (6) or fewer, and seven (7) or more residents;
- (7) Low-Barrier Navigation Center;

Supportive housing where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses per Government Code 65651 if proposed supportive development meets all the requirements of Government Code 65651;

- (8) Transitional housing;
- (9) A Home Office or Cottage Food Operation, provided that a Zoning Clearance has been issued in accordance with sections 5.03.355 or 5.03.356, and remains in effect for the property;
- (10) A Single Room Occupancy (SRO); and
- (11) Agricultural employee housing for six (6) or fewer persons subject to the same regulations as a single-family dwelling.

(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) Residential Planned Development on land identified in the Colma General Plan as suitable for residential uses, provided that the proposed residential density does not exceed that specified in the Colma General Plan;

- (2) A home occupation, as described in section 5.03.351 of this Code; and
 - (3) A "large family day care home," as defined, and pursuant to the procedures and standards set forth in Section 5.03.111 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 Zoning Administrator in accordance with the procedures set forth in Section 5.03.290 of this Code provided that the Planner makes the findings for a use permit set forth in section 5.03.255 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 5.03.300 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.
- (d) Wireless Communications Facilities, except those permitted pursuant to Section 5.17.010 or Section 5.17.120, are prohibited in the "R" Zone.

[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; ORD. 706, 3/14/12; ORD. 724, 6/12/13; ORD. 728, 10/9/13; ORD. 770, 3/22/17]

Authorities: Gov't Code §§ 51035, 65850, 65589.5]

5.03.082 "R" - Residential Zone Development Standards.

The following regulations shall apply with respect to each lot zoned Residential.

- (a) All land within the "R" Zone, shall be subject to the following density requirements:
 - (1) Low density residential is permitted up to thirteen (13) dwelling units per acre.

(2) Medium density residential is permitted from thirteen (13) to thirty (30) units per acre.

(b) All land within the "R" Zone, except as provided in subparagraph (5) below, shall be subject to the following area requirements:

(1) The front yard shall have a depth of not less than fifteen (15) feet from property line to front line of the building;

(2) The side yard shall be not less than 10 per cent of the width of the lot or 10 feet, whichever is the lesser;

(3) The rear yard shall be not less than 25 per cent of the total area of the lot, but such rear yard need not exceed 25 feet; save and except any "R" Zone located in that portion of Colma bounded by F Street, Hillside Boulevard, El Camino Real, and the northern boundary of the Town of Colma, in which area the rear yard shall have a depth of not less than 15 feet from property line to rear line of the building with respect to the first story of the building, and a depth of not less than 25 feet from property line to the rear line of any portion of the building above the first story. The one-story portion of a building which extends less than 25 feet from the rear property line shall have a pitched roof, and the space above the roof shall not be used for a roof deck, balcony or other similar purpose.

(4) Every lot shall have a minimum average width of 33-1/3 feet and a depth of not less than 100 feet.

(5) Notwithstanding the setback requirements of subparagraphs (1), (2), and (3) above, the distance between the vehicle entry of any covered parking structure to the property line shall be not less than 19 feet.

(6) Notwithstanding the area requirements of subparagraphs (1), (2), (3) and (4) above, the City Council may waive one or more of the area requirements upon finding all of the following:

(i) That there be two or more dwellings constructed prior to January 1, 1990 on a single parcel without common walls;

(ii) That it would be beneficial to the neighborhood to have each dwelling on a separate parcel;

(iii) That the parcel cannot be reasonably divided and still meet all of the foregoing area requirements; and

(iv) That the waiver will not tend to increase the density of use.

(c) The minimum number of off-street parking spaces as defined in section 5.30.232, Parking Standards, of this Code and as follows:

(1) Additions and Remodeling of Residential Structures. Residential structures

existing prior to March 1, 1988, or for which a use permit was issued prior to March 1, 1988, complying with previous law which required only 1 covered parking space for a single-family dwelling or for a multiple dwelling unit having 0 or 1 bedrooms, and 1.5 covered parking spaces for each multiple dwelling unit having 2 or more bedrooms, shall not be required to provide additional parking in compliance with the standards of Section (1) above because of repair, restoration, additions, or remodeling of such units except as follows:

(i) If additional bedrooms are added to such existing dwelling units, additional parking must be added at the rate of one-half ($\frac{1}{2}$) space per bedroom for each bedroom exceeding the total, existing and added, of 4 bedrooms. The additional parking required may be uncovered.

(ii) Additional units may be added to an existing structure provided off-street parking is added to meet the minimum standards for the new unit.

(2) Tandem parking is permitted provided tandem spaces are solely for the use of an individual unit. Tandem parking is not permitted where such spaces are required for two or more separate units.

(3) A bedroom for the purposes of these requirements is a room used as a bedroom or designed to be used as a bedroom. In the event of a dispute as to whether or not a room is a bedroom, determination shall be made by the City Planner based on the foregoing standard.

(4) If the total number of parking spaces required includes a fraction, the requirement shall be the next full number. For example, if the requirement is 4.5 spaces, 5 spaces shall be required.

(5) For all single-family residential units constructed, replaced or to which a second story is added after October 8, 2003, the covered parking spaces required by section 5.03.232 must be enclosed by walls and a lockable vehicle entry door, and must meet the following minimum dimensions, excluding areas designed or used for stairs, utility closets, and major appliances:

(i) Eleven feet (11') wide and twenty feet (20') long, where one covered parking space is required;

(ii) Twenty feet (20') wide and twenty feet (20') long, where two covered parking spaces is required.

(6) Pursuant to AB 2097, Government Code Section 65863.2, there is no minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of high quality public transit. However, a development of 19 dwelling units or fewer may impose parking requirements per Table 4 – Parking Standards, Section 5.03.232.

(d) No building may exceed a height of thirty-six (36') feet in the "R" zone.

(e) All buildings must be constructed to the specifications of the Colma Building Code, or with respect to a Manufactured Home, in conformance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC section 5401 and following).

(f) A single-family dwelling unit shall be subject to the following requirements:

(1) The building shall be not less than 20 feet wide, as measured by the narrowest elevation;

(2) The siding shall not be highly reflective;

(3) The finished roofing material shall not be highly reflective except for the employment of solar energy devices;

(4) Exterior covering material shall extend to finish grade; except that, when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation;

(5) The roof pitch shall not be less than a two inch vertical rise for each twelve inches of horizontal run, unless, upon application, the Zoning Administrator finds that a flatter roof style would be compatible with the surrounding neighborhood;

(6) There shall be a roof overhang of at least 12 inches around the entire perimeter of the manufactured home as measured from the vertical side of the home, except that the Zoning Administrator may waive this requirement (A) at the point of connection where an accessory structure is attached to the manufactured home, or (B) upon finding that a lesser overhang would be compatible with the surrounding neighborhood;

(7) All mechanical and electrical equipment shall be screened so that the equipment is not visible from the public right-of-way. For roof and wall-mounted equipment, the screening shall be an integral part of the building design. They shall not use screening material which is highly reflective or incompatible with siding material.

(g) A manufactured home shall be subject to each requirement set forth in the preceding subsection. A manufactured home shall also be subject to the following, additional requirements:

(1) A manufactured home shall not be more than 10 years old on the date of the application for the issuance of a permit to install the structure. The date of manufacture shall be utilized to assess the structure's age;

(2) A manufactured home shall be installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code, and;

(h) Underground and screen utilities in new developments, at a minimum from the nearest Underground above-ground pole to the building. Transformer shall be located as far away from a public street as possible and shall be screened from view by landscaping to the extent feasible.

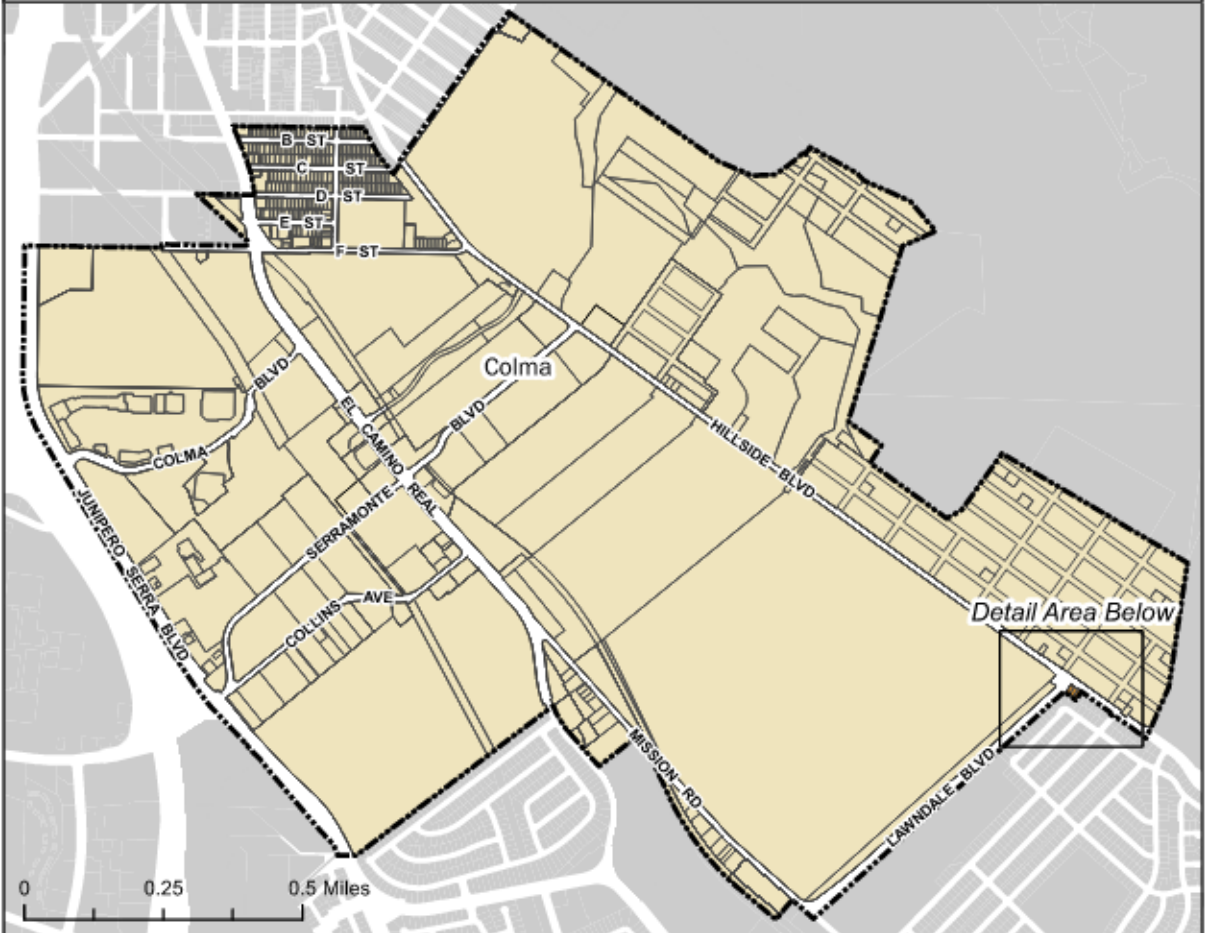
(i) A multiple family residence shall be subject to the following requirement:

- (1) 100 square feet of private open space for each dwelling unit for use by residents of the project, such as courtyards, private balconies, and rooftop patios.
- (j) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-sensitive land uses.
- (k) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.
- (l) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.
- (m) Recreation Requirements for New Developments. All new development shall require dedication of improved land, or payment of a fee in-lieu of, for park and recreation land for all residential uses.
- (n) Green Infrastructure. Incorporate green infrastructure, which relies on natural processes for stormwater treatment/drainage, groundwater recharge and flood control, into street and rights-of-way wherever applicable, including curb cuts, flow-through planters and bioswales that slow stormwater runoff by dispersing it to vegetated areas, harvesting and use of runoff, and promote infiltration and use of bioretention to clean stormwater runoff.
- (o) Storm Water Runoff. Require large-scale projects (over 0.5 acres) to channel surface and roof runoff to on-site detention facilities to facilitate Storm Water Runoff. Require large-scale projects (over 0.5 acres) to channel surface and roof runoff to on-site detention facilities to facilitate groundwater recharge, reduce stormwater pollution, and mitigate flooding of Colma Creek.
- (p) Sensitive Biological Habitats. Require new development on or near sensitive habitats, such as open creeks, ponds, and other water features, to be subject to an investigation and study of the presence of the threatened Red-legged frog and endangered San Francisco Garter Snake.
- (q) Habitat Enhancement. Require new development to minimize the disturbance of natural habitats and vegetation, and revegetation of disturbed habitat with native and/or non-invasive, naturalized species.
- (r) Nesting Bird Protection. Require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove or be in close proximity to any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.
- (s) Water Conservation. Promote the conservation and efficient use of water in new and existing residences and commercial buildings and sites.

(t) Water Efficient Landscape. Review landscape and hardscape installations as part of new development to ensure compliance with water conservation requirements in the Water Efficient Landscape Ordinance.


[History: formerly § 5.331, ORD. 234, 3/14/79; ORD. 298, 6/13/84; ORD. 280, 1/12/83; ORD. 304, 10/10/84; ORD. 309, 2/13/85; ORD. 319, 5/8/85; ORD. 367, 4/13/88; ORD. 404, 11/08/89; ORD. 463, 11/10/93; ORD. 480, 5/10/95; ORD. 600, 6/25/03; ORD. 608, 12/10/03; ORD. 638, 12/14/05; ORD. 720, 5/8/13; ORD. 728, 10/9/13; ORD. 738, 1/14/15]

Town of Colma Residential Zone Map



-  Town Limits
-  Parcel Boundary

Residential Zone

-  'R' - Residential



Comprehensive zoning information is shown on separate maps included in this document.



Prepared by CSG Consultants, Inc., January 2024.

III. "R-S" – Sterling Park Neighborhood Residential Zone

5.03.090 Regulations Established.

The regulations herein are applicable to properties zoned Sterling Park Neighborhood Residential and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.091 "R-S" Zone - Permitted Uses.

- (a) The following uses are permitted on land located within the "R-S" Zone:
- (1) Single-family dwelling;
 - (2) A manufactured home;
 - (3) A "small family day care home" as defined in the Health and Safety Code providing family day care to six or fewer children;
 - (4) Group homes for six (6) or fewer, and seven (7) or more residents;
 - (5) Community parks and public buildings;
 - (6) Single-room occupancy housing;
 - (7) Supportive housing;
 - (8) Transitional housing;
 - (9) An accessory dwelling unit within the existing single family residential structure as permitted in Section 5.03.100;
 - (10) A Home Office or Cottage Food Operation, provided that a Zoning Clearance has been issued in accordance with sections 5.03.354 and remains in effect for the property; and
 - (11) Agricultural employee housing for six (6) or fewer persons subject to the same regulations as a single-family dwelling.
- (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) A home occupation, as described in section 5.03.355 of this Code;
 - (2) A "large family day care home" as defined, and pursuant to the procedures and standards set forth in Sections 5.03.030 and 5.03.111 below.
- (c) Existing multiple residence buildings, warehouses and other facilities not specifically listed in subparagraphs (a) and (b) above, shall be considered non-conforming uses. If warehouses or

buildings housing commercial or light industrial uses are destroyed or damaged in excess of fifty percent (50%) of their market value they may only be replaced with conforming uses. If multiple residential buildings are destroyed or damaged beyond fifty percent (50%) of their market value they may be replaced with an equal number of legal units provided parking and other development standards comply with the standards set forth in this District.

(d) Legal second units, existing in conjunction with a principal residence on August 19, 1998, shall be considered legal, non-conforming uses. New second units or expansions to existing units are prohibited.

(e) Accessory buildings may be permitted in the "R" Zone in accordance with section 5.03.300, Accessory Buildings, of this Code.

(f) The following uses are specifically prohibited in the "R-S" Zone:

(1) Wireless Communications Facilities, as regulated in Subchapter 5.17, except those permitted pursuant to Section 5.17.010 or Section 5.17.120.

(2) Churches

(3) Schools

(4) Commercial and Light Industrial uses

[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; ORD. 706, 3/14/12; ORD. 724, 6/12/13; ORD. 728, 10/9/13]

[Authorities: Gov't Code §§ 51035, 65850, 65589.5]

5.03.092 "R-S" Zone Development Standards.

(a) The following regulations shall apply with respect to each lot in the "R-S" Zone. All land within the "R-S" Zone shall be subject to the following development standards:

(1) Front yards must have a depth of not less than fifteen (15) feet from the front property line to the front face of the dwelling, nor less than nineteen (19) feet from the front property line to the front face of the garage. Corner lots shall be considered to a front yard bordering each street.

(2) Side yards must not be less than ten percent (10%) of the lot width or ten feet (10'), whichever is less. No mechanical equipment, chimneys or above-ground stairs may project into required side yards. Stairs at grade and ground level decks are excepted.

(3) Rear yards must not be less than twenty-five feet (25') from the rear property line to any two story portion of the dwelling nor less than fifteen feet (15') to any one story portion of the dwelling. Any one story portion of a dwelling which extends less than twenty-five feet (25') from the rear property line must have a pitched roof, and the space above the roof must not be used for a roof deck, balcony or other similar purpose.

(4) Every lot must have a minimum average width of 33.33 feet and a minimum average depth of not less than 100 feet.

(5) Notwithstanding the requirements of subparagraphs (1), (2), (3) and (4) above, the City Council may waive one or more of the area requirements upon finding all of the following:

(i) That there are two or more dwellings constructed prior to January 1, 1990 on a single parcel without common walls;

(ii) That it would be beneficial to the neighborhood to have each dwelling on a single parcel;

(iii) That the parcel cannot be reasonably divided and still meet all of the foregoing requirements; and

(iv) That the waiver will not tend to increase the density of use.

(b) The minimum number of off-street parking spaces, as defined in Section 5.03.232 and shall be as hereinafter set forth:

(1) For all units constructed or replaced after March 1, 1988, off-street parking must be provided as set forth in the Parking Standards Table in Section 5.03.232:

(2) For all residential structures existing prior to March 1, 1988, or for which a Use Permit was issued prior to March 1, 1988, complying with previous law which required only one (1) covered space for a single family dwelling or for a multiple dwelling having no more than one bedroom, and 1.5 covered parking spaces for each multiple dwelling having two (2) or more bedrooms, owners are not required to provide additional parking because of repair, restoration, remodeling or additions to such units except as follows:

(i) If additional bedrooms are added to an existing single family dwelling the number of off-street parking spaces must be increased by 0.5 covered or uncovered spaces for each bedroom exceeding the total, existing and added, of four (4) bedrooms.

(3) Tandem parking is not permitted for new single family detached dwellings; tandem parking is only permitted for dwellings where tandem parking existed prior to the effective date of this ordinance.

(4) A bedroom for purposes of these requirements is a room used as a bedroom or designed to be used as a bedroom. In the event of a dispute as to whether or not a room is a bedroom, determination shall be made by the City Planner based on the foregoing standard.

(5) If the total number of parking spaces required includes a fraction, the requirements shall be the next full number.

(6) For all single-family residential units constructed, replaced or to which a second

story is added after October 8, 2003, the covered parking spaces required by section 5.03.232 must be enclosed by walls and a lockable vehicle entry door, and must meet the following minimum dimensions, excluding areas designed or used for stairs, utility closets, and major appliances:

- (i) Eleven feet (11') wide and twenty feet (20') long, where one covered parking space is required;
- (ii) Twenty feet (20') wide and twenty feet (20') long, where two covered parking spaces is required.

(7) Pursuant to AB 2097, Government Code Section 65863.2, there is no minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of high quality public transit. However, a development of 19 dwelling units or fewer may impose parking requirements per Table 4 – Parking Standards, Section 5.03.232.

(c) No buildings may exceed a height of twenty-seven feet (27') measured from the finished grade at the perimeter of the building to the highest point of the roof line.

(d) All buildings must be built to the specifications of the Colma Building Code or, with respect to a Manufactured Home, in conformance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC section 5401 and following).

(e) All residential buildings must comply with the following design standards:

(1) The building shall be not less than 20 feet wide, as measured by the narrowest elevation;

(2) The siding shall not be highly reflective;

(3) The finished roofing material shall not be highly reflective except for the employment of solar energy devices;

(4) Exterior covering material shall extend to finish grade; except that, when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation;

(5) Buildings must be designed to feature a one-story front facade at the front yard setback;

(6) Any existing second unit must be clearly subordinate to the principal unit and must not have its front door facing the street;

(7) Exterior building walls must be well articulated with windows, doors, balconies, bays, exposed beams, overhangs and similar features; trim and moldings must be utilized to accentuate rooflines and wall openings;

(8) All roofs must have a pitch not less than two inch vertical rise for each twelve

inches of horizontal run. This shall not apply to existing buildings where the roof is not being remodeled;

(9) All mechanical and electrical equipment must be located so as not to be visible from the public right-of-way;

(10) At least sixty percent (60%) of the front setback area must be devoted to landscaping; front yard areas, other than driveway aprons, must not be used for storage of motor vehicles;

(11) There shall be a roof overhang of at least 12 inches around the entire perimeter of the manufactured home as measured from the vertical side of the home, except that the Zoning Administrator may waive this requirement (A) at the point of connection where an accessory structure is attached to the manufactured home, or (B) upon finding that a lesser overhang would be compatible with the surrounding neighborhood;

(12) Trash receptacles must be stored so they are not visible from the public right-of-way; and

(13) Front yard areas must never be used for storage.

(f) A manufactured home shall be subject to each requirement set forth in the preceding subsection except for the requirements numbered. A manufactured home shall also be subject to the following, additional requirements:

(1) A manufactured home shall not be more than 10 years old on the date of the application for the issuance of a permit to install the structure. The date of manufacture shall be utilized to assess the structure's age; and

(2) A manufactured home shall be installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code.

(g) Underground and screen utilities in new developments, at a minimum from the nearest Underground above-ground pole to the building. Transformer shall be located as far away from a public street as possible and shall be screened from view by landscaping to the extent feasible.

(h) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-sensitive land uses.

(i) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.

(j) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.

(k) Recreation Requirements for New Developments. All new development shall require

dedication of improved land, or payment of a fee in-lieu of, for park and recreation land for all residential uses.

(l) Green Infrastructure. Incorporate green infrastructure, which relies on natural processes for stormwater treatment/drainage, groundwater recharge and flood control, into street and rights-of-way wherever applicable, including curb cuts, flow-through planters and bioswales that slow stormwater runoff by dispersing it to vegetated areas, harvesting and use of runoff, and promote infiltration and use of bioretention to clean stormwater runoff.

(m) Storm Water Runoff. Require large-scale projects (over 0.5 acres) to channel surface and roof runoff to on-site detention facilities to facilitate groundwater recharge, reduce stormwater pollution, and mitigate flooding of Colma Creek.

(n) Sensitive Biological Habitats. Require new development on or near sensitive habitats, such as open creeks, ponds, and other water features, to be subject to an investigation and study of the presence of the threatened Red-legged frog and endangered San Francisco Garter Snake.

(o) Habitat Enhancement. Require new development to minimize the disturbance of natural habitats and vegetation, and revegetation of disturbed habitat with native and/or non-invasive, naturalized species.

(p) Nesting Bird Protection. Require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove or be in close proximity to any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.

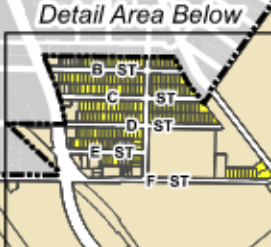
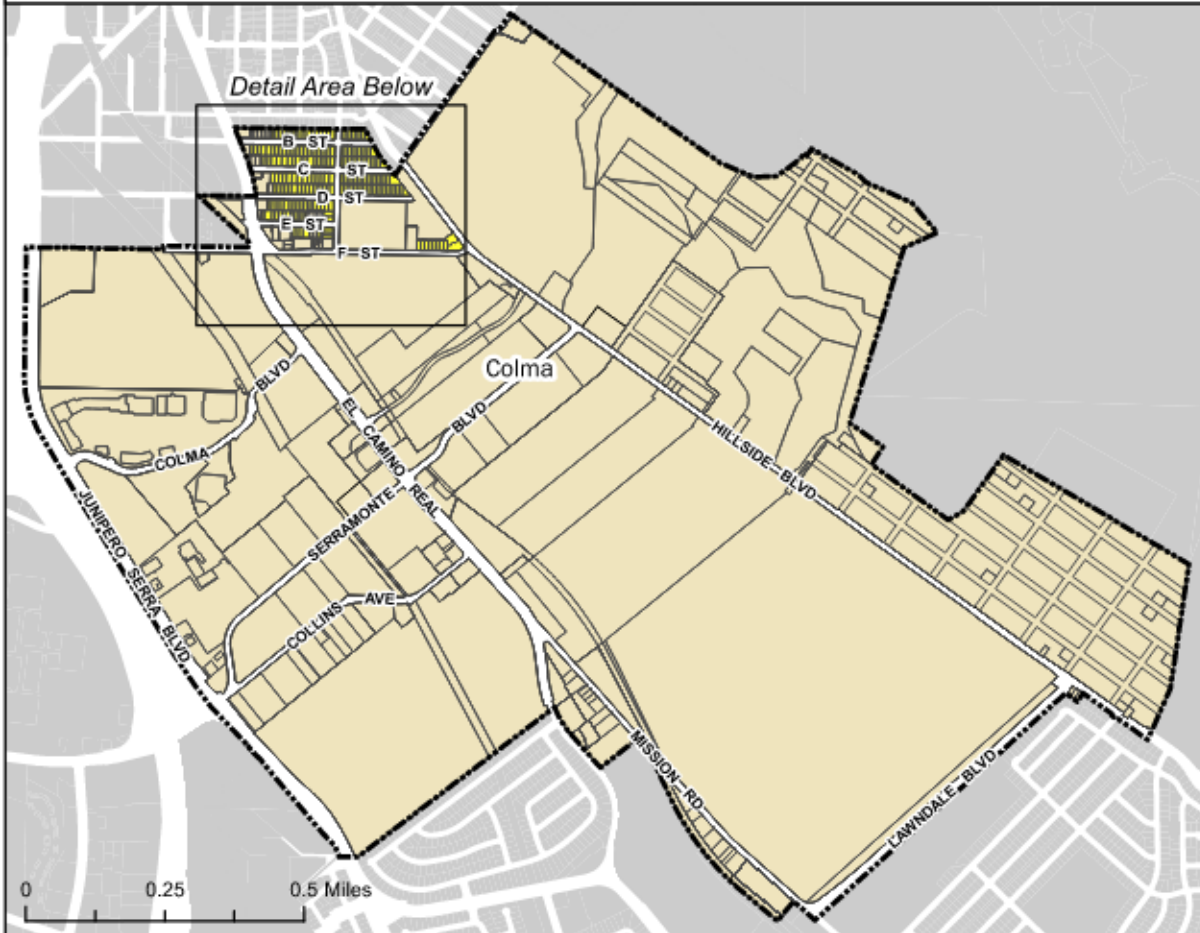
(q) Water Conservation. Promote the conservation and efficient use of water in new and existing residences and commercial buildings and sites.

(r) Water Efficient Landscape. Review landscape and hardscape installations as part of new development to ensure compliance with water conservation requirements in the Water Efficient Landscape Ordinance.

[History: formerly § 5.331.1, ORD. 304, 10/10/84; ORD. 536, 7/8/98; ORD. 608, 12/10/03; ORD. 638, 12/14/05; ORD. 720, 5/8/13; ORD. 738, 1/14/15]

Town of Colma

Neighborhood Residential Zone Map



-  Town Limits
-  Parcel Boundary



Neighborhood Residential Zone

-  'R-S' - Neighborhood Residential



Comprehensive zoning information is shown on separate maps included in this document.



Prepared by CSG Consultants, Inc., January 2024.

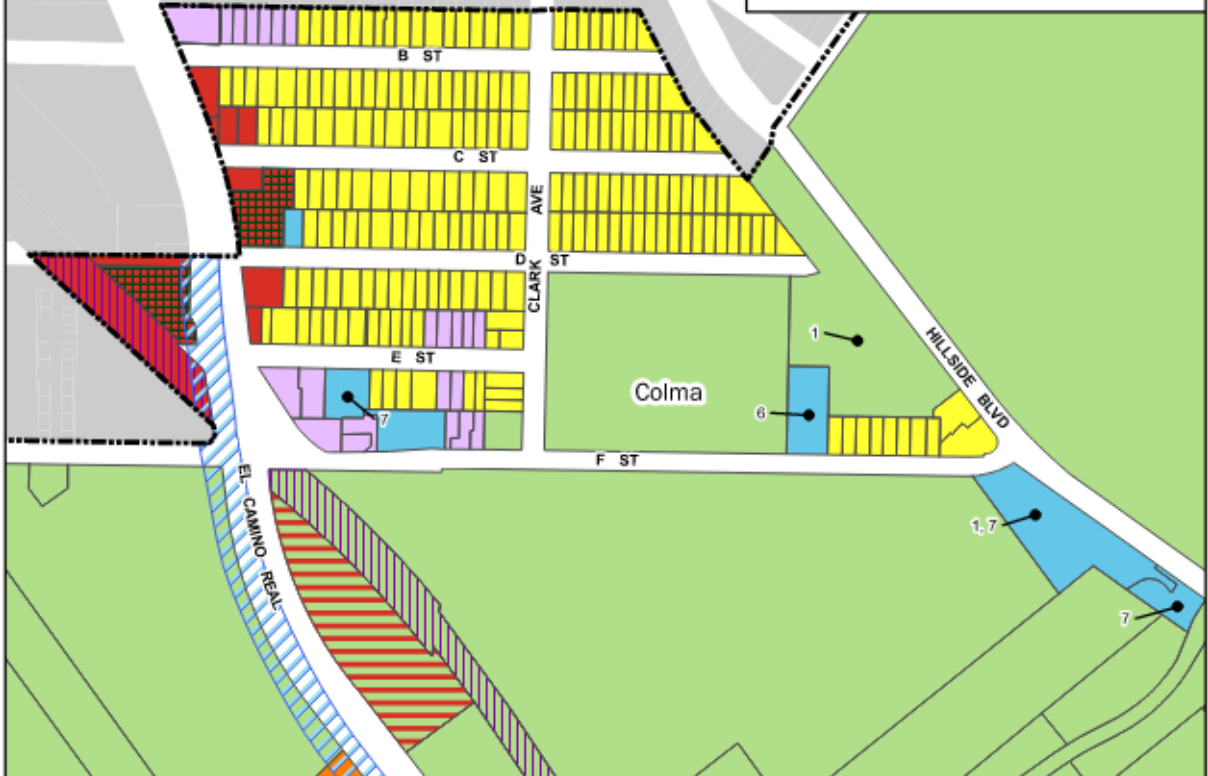
Town of Colma - Sterling Park Neighborhood Zoning Map

0 500 1,000 Feet

Amendments occurring since the 1999 General Plan Update: *

1. Ordinance No. 557 (July 14, 1999).
6. Ordinance No. 609 (November 5, 2003).
7. Ordinance No. 610 (December 10, 2003).

* This is an excerpt of the Town Zoning Map. For comprehensive information, see the Town Zoning Map.



- Town Limits
- Parcel Boundary



A Townwide zoning map is included in this document.



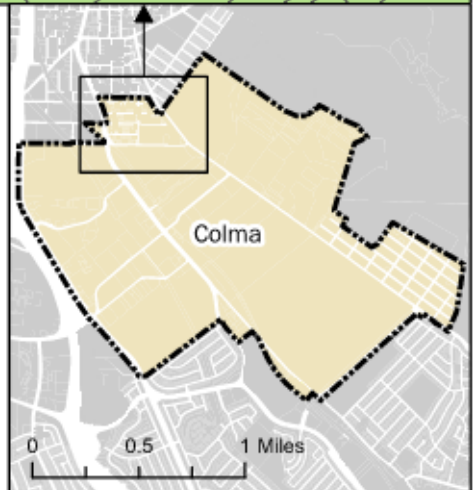
Zone

- 'G' - Golf and Cemetery
- 'R' - Residential
- 'R-S' - Neighborhood Residential
- 'C' - Commercial
- 'P' - Public
- 'E' - Executive, Administrative
- 'PD' - Planned Development

Overlay Zone

- May be combined with all base zones.
- 'COD' - Commercial Overlay District
 - 'T' - Transit
 - 'F' - Flood Safety Overlay
 - 'HEO' - Housing Element Overlay

The 'DR' - Design Review Combining Zone is shown on a separate map included in this document.



Prepared by CSG Consultants, Inc., January 2024.

IV. Accessory Dwelling Units and Junior Accessory Dwelling Units

5.03.100 Purpose.

The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code sections 65852.2 and 65852.22.

5.03.101 Definitions.

For purposes of this section, definitions associated with accessory dwelling units and junior accessory dwelling units are provided in section 5.03.030 of this Code.

5.03.102 Effect of Conforming Accessory Dwelling Unit.

An ADU or JADU that conforms to the standards in this section will not be:

- (a) Deemed to exceed the allowable density for the lot upon which the ADU or JADU is located;
- (b) Deemed to be inconsistent with the General Plan and the zoning designation for the lot on which the ADU or JADU is located; and
- (c) Considered in the application of any ordinance, policy, or program to limit residential growth; and
- (d) Required to correct a nonconforming zoning condition, as defined in section 5.03.101. This does not prevent the Town from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

5.03.103 Approvals

The following approvals apply to ADUs and JADUs under this section:

(a) Building Permit Only.

If an ADU or JADU complies with each of the general requirements in subsection 5.03.104, it is allowed with only a building permit in the following scenarios:

1. **Converted on Single-family Lot:** One ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - A. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress and meets required setbacks.
 - B. Has exterior access that is independent of that for the single-family dwelling.

C. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

D. The JADU complies with the requirements of Government Code Section 65852.22.

2. **Limited Detached on Single-family Lot:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection 5.03.103(a)(1)), if the detached ADU satisfies the following limitations:

A. The side- and rear-yard setbacks are at least four-feet.

B. The total floor area is 800 square feet or smaller.

C. The peak height above grade is 16 feet or less.

3. **Converted on Multifamily Lot:** One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU under this paragraph is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing number of multifamily dwelling units.

4. **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:

A. The side- and rear-yard setbacks are at least four-feet.

B. The peak height above grade is 16 feet or less.

(b) **ADU Permit.**

1. Except as allowed under paragraph (a).1 of this section, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections 5.03.104 and 5.03.105 below.

2. The Town may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City's ADU ordinance. The ADU-permit processing fee is approved by the City Council by resolution.

(c) **Process and Timing.**

1. An ADU permit is considered and approved ministerially, without discretionary review or a hearing.

2. The Town must act on an application to create an ADU or JADU under paragraphs (a) or (b) above within 60 days from the date that the Town receives a completed

application, unless either:

(a) The applicant requests a delay, in which the 60-day time period is tolled for the period of the requested delay, or

(b) When an application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling on the lot, the Town may delay acting on the permit application for the ADU or JADU until the Town acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

5.03.104 General ADU and JADU Requirements.

The following requirements apply to all ADUs and JADUs that are approved under paragraphs (a) or (b) of section 5.03.103.

(a) **Zoning.**

1. An ADU or JADU subject only to a building permit under section 5.03.103(a) above may be created on a lot in a residential or mixed-use zone.

2. An ADU or JADU subject to an ADU permit under section 5.03.103(b) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

(b) **Fire Sprinklers.** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

(c) **Rental Term.** No ADU or JADU may be rented for a term that is 30 days or less.

(d) **No Separate Conveyance.** An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).

(e) **Owner Occupancy.**

1. All ADUs created before January 1, 2020 are subject to the owner-occupancy requirement that was in place when the ADU was created.

2. An ADU that is created after that date but before January 1, 2025, is not subject to any owner-occupancy requirement.

3. All ADUs that are created on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.

4. All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the

owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

(f) **Income Reporting.** In order to facilitate the Town's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:

1. With the building-permit application, the applicant must provide the Town with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
2. Within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the Town does not receive the report within the 90-day period, the Town may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the Town may enforce this provision in accordance with applicable law.

(g) **Notice of Construction.** At least ten business days before starting any construction of an ADU or JADU, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:

1. Notice that construction has been authorized,
2. The anticipated start and end dates for construction,
3. The hours of construction,
4. Contact information for the project manager (for construction-related complaints), and
5. Contact information for the Building & Safety Department.
6. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the Town has no discretion in approving or denying a particular ADU project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

(h) **Building & Safety.**

1. Subject to section 5.03.104(h)2 below, all ADUs and JADUs must comply with all local building code requirements.
2. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the Building Official or designee makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this section 5.03.104(h)2 prevents the town from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance

with this section.

5.03.105 Specific ADU Requirements.

The following requirements apply only to ADUs that require an ADU permit under section 5.03.103(b), above.

(a) **Maximum Size.**

1. The maximum size of a detached or attached ADU subject to this section 5.03.105 is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.

2. An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling, subject to subsection (a)3 below.

3. Application of other development standards in this section 5.03.105, such as FAR or lot coverage, might further limit the size of the ADU, but no application of the percent-based size limitation in paragraph (a)2 of this section, or of FAR, lot coverage, or open-space requirements may require the ADU to be less than 800 square feet.

(b) **Floor Area Ratio (FAR).** No ADU subject to this section 5.03.105 may cause the total FAR of the lot to exceed 45 percent, subject to paragraph (a)3 of this section.

(c) **Lot Coverage.** No ADU subject to this section 5.03.105 may cause the total lot coverage of the lot to exceed 50 percent, subject to paragraph (a)3 of this section.

(d) **Height.** An ADU may not exceed 16 feet in height above grade, measured to the peak of the structure, and one story.

(e) **Passageway.** No passageway, as defined in section 5.03.030, is required for an ADU.

(f) **Setbacks.**

1. No part of any ADU subject to this section 5.03.105 may be located within 19 feet of the front property line.

2. No part of any ADU subject to this section 5.03.105 may be located within 15 feet of a street-facing property line.

3. No part of any ADU subject to this section 5.03.105 may be located within four feet of a side or rear property line.

4. No setback is required for an ADU that is subject to this subsection (f) if the ADU is constructed in the same location and to the same dimension as an existing structure.

(g) **Parking.**

1. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined in section 5.03.030.

2. Exceptions. No parking under paragraph (g)1 of this section 5.03.105 is required in the following situations:

A. The ADU is located within one-half mile walking distance of public transit, as defined in section 5.03.030.

B. The ADU is located within an architecturally and historically significant historic district.

C. The ADU is part of the proposed or existing primary residence or an accessory structure under paragraph (a) of section 5.03.105.

D. When on-street parking permits are required but not offered to the occupant of the ADU.

E. When there is an established car share vehicle stop located within one block of the ADU.

F. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (g)2.A through E of section 5.03.105 above.

3. No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

(h) **Architectural Requirements.** The following architectural standards shall apply to ADUs that are approved under paragraph (b) of section 5.03.103:

1. The materials and colors of the exterior walls, roof, and windows and doors must match the appearance and architectural design of those of the primary dwelling.

2. The roof slope must match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope shared by the largest portion of the roof.

3. The exterior lighting must be limited to down-lights unless otherwise required by the building or fire code.

4. The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance must be located on the side or rear building façade, not facing a public right-of-way.

5. The interior horizontal dimensions of an ADU must be at least 10 feet wide in every direction, with a minimum interior wall height of seven feet.

6. Windows and doors of the ADU may not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide

screening and prevent a direct line of sight.

7. All windows and doors that are less than 30 feet from a property line that is not a right-of-way line must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and doors) utilize frosted or obscure glass.

(i) **Landscape Requirements.**

1. Within the 4-foot or greater side setback and for a minimum depth of at least 4 feet along a back fence, landscaping shall be maintained that includes groundcover with automatic irrigation that still allows for fire-access in the setback area. Paving of the entire rear yard setback area is prohibited.

2. In addition to the maintenance of fence of at least five (5) feet in height between properties, specimen plantings or a trellis with vines shall be provided in the setback area that provides landscaping and privacy screening of the ADU or JADU from windows or outdoor living areas of adjoining properties.

(j) **Historical Protections.** The following requirements apply to ADUs on or within 600 feet of real property that is listed in the California Register of Historic Resources:

1. ADUs may only be located within an existing structure or located with no direct line of sight to any portion of the ADU from a public right-of-way.

2. The architectural treatment of an ADU to be constructed on a lot that has an identified historical resource listed on the federal, state, or local register of historic places must comply with the Secretary of the Interior's objective Standards for Preservation, Rehabilitation, Restoration, or Reconstruction the Treatment of Historic Properties, as applicable.

5.03.106 Deed Restriction.

Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the City Planner. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the Town and must provide that:

(a) Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.

(b) The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.

(c) The deed restriction runs with the land and may be enforced against future property owners.

(d) The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the City Planner, providing evidence that the ADU or JADU

has in fact been eliminated. The City Planner may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the City Planner determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of the ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.

(e) The deed restriction is enforceable by the City Planner or his or her designee for the benefit of the Town. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the Town is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

5.03.107 Fees.

(a) **Impact Fees.**

1. No impact fee is required for an ADU that is less than 750 square feet in size.
2. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) "Impact fee" here includes fees that are subject to the Mitigation Fee Act and fees under the Quimby Act; it does not include any connection fee or capacity charge for water or sewer service.

(b) **Utility Fees.**

1. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
2. Except as described in subsection (b)1 above, converted ADUs and JADUs on a single-family lot that are created under section 5.03.103, paragraph (a)1, above are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required.
3. Except as described in subsection (b)1 above, all ADUs not covered by section (b).2 require a new, separate utility connection directly between the ADU and the utility. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The portion of the fee or charge may not exceed the reasonable cost of providing this service.

5.03.108 Nonconforming Zoning Conditions, Building Code Violations, and Unpermitted Structures.

(a) Generally. The town will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU

or JADU.

(b) Unpermitted ADUs constructed before 2018.

1. Permit to Legalize. As required by state law, the town may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:

A. The ADU violates applicable building standards, or

B. The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance.

2. Exceptions:

A. Notwithstanding subsection (b)1 above, the town may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the town makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.

B. Subsection (b)1 above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

5.03.109 Nonconforming ADUs and Discretionary Approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in the other sections of this section may be allowed by the Town with a Conditional Use Permit, in accordance with sections 5.03.241 through 5.03.246.

[History: Ord. 770, 3/22/17; Ord. 801, 6/10/20]

V. Large Family Day Care Homes

5.03.110 Purpose.

The purpose of section is to establish standards for large family day care homes.

5.03.111 Standards for Permitting 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.

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.

(2) 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 5.03.080 and 5.03.090 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 5.03.232 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 5.03.232 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 5.03.080 and 5.03.090 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 Section 5.03.320, 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 Law, 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.

VI. Regulation of Multi-Family Uses in Single-Family Residential Zones

5.03.120 Purpose.

The purpose of this section is to preserve the residential character of neighborhoods in single-family residential zones by prohibiting the operation of boarding houses and rooming houses. This section is directed at the commercial use of property that is inconsistent with the residential character of the neighborhoods in single-family residential zones and not the identity of the users.

5.03.121 Prohibition of Boarding Houses or Rooming Houses in Single-Family

Residential Zones.

The operation of a boarding house or rooming house is prohibited in all single-family residential zones.

5.03.122 Permitted Uses.

- (a) Multi-family units.
- (b) The renting of not more than two (2) rooms in a dwelling unit to individuals under separate rental agreements or leases is permitted by right as an accessory use in all residential districts, provided that:
 - (i) The rental of rooms is for periods of at least fourteen (14) days; and
 - (ii) The rooms which are rented are fully integrated within the dwelling unit such that the rented rooms:
 - (a) Have interior access to the rest of the dwelling unit;
 - (b) Do not have separate cooking facilities; and
 - (c) Do not have separate street addresses assigned to such rooms(s).
 - (d) All requirements for off-street parking are met except for the following:
 - (1) Pursuant to AB 2097, if a housing development project of twenty (20) dwelling units or more is within ½ mile of high quality public transit, no parking is required to be provided for the project.
 - (2).. A development of 19 dwelling units or fewer may impose parking requirements per Parking Table 4 in Section 5.03.234.
- (c) Notwithstanding anything to the contrary herein, this section does not permit a commercial use in a residential district unless such a use is specified in the regulations for the district.
- (d) *Violations.* Violations of this ordinance are declared to be a public nuisance. Each violation is subject to the penalties set forth in Subchapter Five of Chapter One of the Colma Municipal Code.

[*History:* formerly § 5.331.3; ORD. 628, 5/11/05; ORD. 638, 12/14/05]

VII. "C" – Commercial Zone

5.03.130 Regulations Established.

The regulations herein are applicable to properties zoned Commercial and are in addition to the

regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.131 Purpose.

The commercial district provides commercial uses intended to serve both neighborhood and regional uses and include commercial developments. Development in these zones may include a variety of commercial and office functions and residential uses above the first floor.

5.03.132 Permitted Uses.

(a) The following uses are permitted in the "C" Zone District, provided, that all businesses, services and processed shall be conducted entirely within an enclosed structure, except for off-street parking and loading:

- (1) Multi-family dwelling units up to six units;
- (2) A low-barrier navigation center;
- (3) An emergency shelter;
- (4) An accessory dwelling pursuant to Section 5.03.100, which shall be limited to only existing single-family residential structures existing as of May 2017 and only where permitted by the General Plan;
- (5) A Single Room Occupancy (SRO); and
- (6) Supportive housing where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses per Government Code 65651 if proposed supportive development meets all the requirements of Government Code 65651.

(b) Uses allowed in the "C" Zone upon issuance of an administrative use permit.

(1) The uses allowed in the "C" Zone with the issuance of a use permit pursuant to Section 5.03.242 may be permitted upon issuance of an administrative use permit, instead of a use permit, if the proposed use meets all of the following criteria:

- A. Will occupy an existing commercial building or occupy a tenant space within an existing commercial building; and
- B. Is within the same Building Code occupancy classification of the existing building; and
- C. Does not require any building modifications; and
- D. Will not exceed the available on-site parking.

(2) This section shall not apply to the following uses, all of which still require a use permit pursuant to Section 5.03.242:

- A. Uses which convert existing warehouse or light industrial space to office;
- B. Uses which convert existing warehouse or light industrial space to auto repair;
- C. Uses which convert retail space to a restaurant or bar; and
- D. Uses which convert warehouse or light industrial space to a use where hazardous materials use requires review by the San Mateo County Environmental Health Department based on responses to questions on their Hazardous Materials Notification Form.

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

- (1) A commercial establishment (including but not limited to bank, brewery, cardroom, mixed-office and warehouse uses, office building, restaurant, retail store, theater, automobile sales, vehicle repair and service uses);
- (2) A single family dwelling provided the proposed residential density does not exceed that specified in the Colma General Plan;
- (3) 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;
- (4) Supportive housing;
- (5) Transitional housing;
- (6) A light industrial establishment;
- (7) Communications structures;
- (8) Commercial center;
- (9) Retail Merchandising Unit (RMU);
- (10) Event;
- (11) Such other uses which are found by the City Council to be of a similar nature to the above described uses.

(d) Low barrier navigation centers may be permitted in the "C" Zone upon issuance of a use permit in accordance with the procedures set forth in Section IXX. Conditional Uses.

[History: formerly § 5.314; ORD. 234, 3/14/79; ORD. 309, 2/13/85; ORD. 425, 7/10/91; Ord. 506, 3/12/97; ORD. 638, 12/14/05; ORD. 720, 5/8/13; ORD. 728, 10/9/13;

5.03.133 "C" - Commercial Zone Development Standards.

The following regulations shall apply with respect to each lot zoned Commercial:

(a) All residential use within the "C" Zone shall be subject to the same requirements as are applicable to residential use in the "R" Zone, as set forth in section 5.03.082 above.

(1) Pursuant to AB 2097, Government Code Section 65863.2, there is no minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of high quality public transit.

(2) A development of 19 dwelling units or fewer may impose parking requirements per Table 4 – Parking Standards, Section 5.03.232.

(b) Commercial establishment uses and light industrial uses shall be subject to the following requirements:

(1) Area: Each lot shall have a minimum average width of 33-1/3 feet and a depth of not less than 100 feet;

(2) Setbacks: The front yard shall have a depth of not less than five (5) feet from property line to front line of the building; the side yards shall not be less than five (5) feet wide; the rear yard shall not be less than five (5) feet deep.

(3) Not more than 50 per cent of any building site shall be covered by buildings.

(4) Parking: For each commercial or light industrial use, the user must provide and maintain facilities for parking, loading and unloading. The minimum number of off- street parking spaces (as defined in section 5.03.232) for each use shall be as set forth in the Parking Standards Table per section 5.03.232.

(5) Height: The maximum height of any building shall be forty (40) feet, except on Mission Road where the maximum height of any building shall be forty-two (42) feet.

(6) Design: The design of any building shall be subject to approval by the City Council which shall consider the height, design and use of such building in relation to the height, design and use of buildings in the surrounding area.

(7) Landscaping: Within the required setback area from streets there shall be maintained on each site only paved parking spaces, paved walks, paved driveways, lawns and landscaping; and the surface of so much of the remainder of each site as is not covered by buildings, by lawns, or by landscaping shall be treated so as to be dust free. The City Council may require, as a condition of the Use Permit, that all or a portion of the setback area be maintained in lawns or landscaping.

(8) Electrical Vehicle Charging Station: Install electric vehicle charging stations.

(9) Undergrounding and Screening of Utilities: Underground and screen utilities in new developments, at a minimum from the nearest above-ground pole to the building.

Transformer shall be located as far away from a public street as possible and shall be screened from view by landscaping to the extent feasible.

(10) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-sensitive land uses.

(11) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.

(12) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.

(13) Recreation Requirements for New Developments. All new development shall require dedication of improved land, or payment of a fee in-lieu of, for park and recreation land for all residential uses.

(14) Green Infrastructure. Incorporate green infrastructure, which relies on natural processes for stormwater treatment/drainage, groundwater recharge and flood control, into street and rights-of-way wherever applicable, including curb cuts, flow-through planters and bioswales that slow stormwater runoff by dispersing it to vegetated areas, harvesting and use of runoff, and promote infiltration and use of bioretention to clean stormwater runoff.

(15) Storm Water Runoff. Require large-scale projects (over 0.5 acres) to channel surface and roof runoff to on-site detention facilities to facilitate groundwater recharge, reduce stormwater pollution, and mitigate flooding of Colma Creek.

(16) Sensitive Biological Habitats. Require new development on or near sensitive habitats, such as open creeks, ponds, and other water features, to be subject to an investigation and the study of the presence of the threatened Red-legged frog and endangered San Francisco Garter Snake.

(17) Habitat Enhancement. Require new development to minimize the disturbance of natural habitats and vegetation, and revegetation of disturbed habitat with native and/or non-invasive, naturalized species.

(18) Nesting Bird Protection. Require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove or be in close proximity to any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.

(19) Water Conservation. Promote the conservation and efficient use of water in new

and existing residences and commercial buildings and sites.

(20) Water Efficient Landscape. Review landscape and hardscape installations as part of new development to ensure compliance with water conservation requirements in the Water Efficient Landscape Ordinance.

(c) Commercial Centers: A commercial center shall be subject to the following requirements:

(1) Area: The building site of a commercial center shall be one-half acre or more.

(2) Setbacks: No building shall be located less than twenty (20) feet from any property line to any portion of the building.

(3) Parking: In any commercial center, the minimum amount of off-street parking shall be such that the ratio of parking spaces to gross leasable area in the shopping center shall be five (5) parking spaces as defined in section 5.01.080 for each one thousand (1,000) square feet of gross leasable area, as herein defined:

(i) For the purpose of this section, gross leasable area (GLA) shall mean the total floor area designed for tenant occupancy, including basements, mezzanines and upper floors. Area is measured from the center line of interior partitions and the outside face of exterior walls. GLA excludes common areas which are not set aside for occupancy and exclusive use of a commercial establishment within the shopping center, such as public toilets, truck and service facilities and malls;

(ii) Exception for gasoline service stations. Gasoline service stations and the area delineated on the shopping center site plan for their use shall have no off-street parking requirements.

(4) Height: The maximum height of any building shall be forty (40) feet, except on Mission Road where the maximum height of any building shall be forty-two (42) feet.

(5) Design: The design of any building in a commercial center shall be subject to approval of the City Council, which shall consider the height, design and use of such building in relation to the height, design and use of buildings in the surrounding area.

(6) Construction: No building shall have exterior walls constructed other than of tilt-up concrete or equal material, nor shall more than fifty per cent of the area of any building site be covered by buildings.

(7) Landscaping: Within the required setback area from streets there shall be maintained on each site only paved parking spaces, paved walks, paved driveways, lawns and landscaping; and the surface of so much of the remainder of each as is not covered by buildings, by lawns, or by landscaping shall be treated so as to be dust free. The City Council may require, as a condition of the Use Permit, that all or a portion of the setback area be maintained in lawns or landscaping.

(8) Electric Vehicle Charging Station: Install electric vehicle charging stations.

- (9) Underground and screen utilities in new developments, at a minimum from the nearest above-ground pole to the building. Transformer shall be located as far away from a public street as possible and shall be screened from view by landscaping to the extent feasible.
- (10) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-sensitive land uses.
- (11) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.
- (12) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.
- (13) Recreation Requirements for New Developments. All new development shall require dedication of improved land, or payment of a fee in-lieu of, for park and recreation land for all residential uses.
- (14) Green Infrastructure. Incorporate green infrastructure, which relies on natural processes for stormwater treatment/drainage, groundwater recharge and flood control, into street and rights-of-way wherever applicable, including curb cuts, flow-through planters and bioswales that slow stormwater runoff by dispersing it to vegetated areas, harvesting and use of runoff, and promote infiltration and use of bioretention to clean stormwater runoff.
- (15) Storm Water Runoff. Require large-scale projects (over 0.5 acres) to channel surface and roof runoff to on-site detention facilities to facilitate groundwater recharge, reduce stormwater pollution, and mitigate flooding of Colma Creek.
- (16) Sensitive Biological Habitats. Require new development on or near sensitive habitats, such as open creeks, ponds, and other water features, to be subject to an investigation and study of the presence of the threatened Red-legged frog and endangered San Francisco Garter Snake.
- (17) Habitat Enhancement. Require new development to minimize the disturbance of natural habitats and vegetation, and revegetation of disturbed habitat with native and/or non-invasive, naturalized species.
- (18) Nesting Bird Protection. Require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove or be in close proximity to any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.

(19) Water Conservation. Promote the conservation and efficient use of water in new and existing residences and commercial buildings and sites.

(20) Water Efficient Landscape. Review landscape and hardscape installations as part of new development to ensure compliance with water conservation requirements in the Water Efficient Landscape Ordinance.

(d) Emergency Shelters: An emergency shelter shall be subject to the following requirements:

(1) No individual or household may be denied emergency shelter because of an inability to pay.

(2) Development Standards

(i) Proximity to Other Shelters: No emergency shelter shall be located closer than three hundred (300) feet to another emergency shelter.

(ii) Vehicle Parking: An emergency shelter shall provide off-street parking spaces totaling the sum of: 0.35 parking spaces for every bed, rounded up to the nearest whole parking space; and one parking space for each employee who is working at the same time as another employee; and all parking spaces required under the Americans for Disabilities Act.

(iii) Bicycle Parking: An emergency shelter shall provide a minimum of one bicycle space for every five beds.

(iv) Shelter Capacity: No emergency shelter shall contain more than thirty (30) beds. The maximum number of beds in all emergency shelters in the Town shall not be less than the number of unsheltered homeless persons in Colma as determined in San Mateo County's Homeless Survey.

(v) Client Waiting Areas: Client waiting areas shall be sized and located appropriately to keep clients from waiting on the public right-of-way.

(vi) Length of Stay: The length of stay per individual in an emergency shelter shall not exceed six (6) months in a consecutive 12-month period.

(vii) Screening of Outdoor Uses: An emergency shelter shall not allow or include any of the following to occur in front of an emergency shelter or in any other location incidental to the shelter that is visible from adjoining properties or the public right-of-way, unless entirely screened from public view.

-designated outdoor smoking area;

-outdoor waiting and client intake area;

-outdoor public telephones; and

-outdoor refuse area.

(viii) Exterior Lighting: Lighting in or on an emergency shelter shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity that is consistent with existing lighting in the surrounding area in which the shelter is located.

(ix) Laundry Facilities: An emergency shelter shall provide laundry facilities to serve the persons residing in the shelter.

(x) Personal Property Storage: An emergency shelter shall provide secure areas for temporary storage of personal property of the persons residing in the shelter.

(3) Management Standards

(i) Emergency Shelter Management Plan: The operator of an emergency shelter shall prepare and submit to the City Planner for its approval, a management plan that includes the following: established staff training program to meet the needs of emergency shelter residents; adequate security measures to protect emergency shelter residents and the neighboring land uses; on-site management and security personnel who must be present at all times when the emergency shelter is in operation; and a list of services provided to assist emergency shelter residents with obtaining permanent housing and income.

(ii) The operator shall, at all times, comply with and perform all terms and conditions of the management plan approved by the City Planner.

[History: formerly § 5.332; ORD. 234, 3/14/79; ORD. 319, 5/08/85; ORD. 467, 6/8/94; ORD. 480, 5/10/95; ORD. 505, 2/19/97; ORD. 638, 12/14/05; ORD. 687, 1/13/10; ORD. 720, 5/8/13; ORD. 728, 10/9/13

VIII. "COD" – Commercial Overlay Zoning District

5.03.140 Regulations Established.

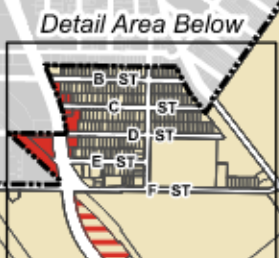
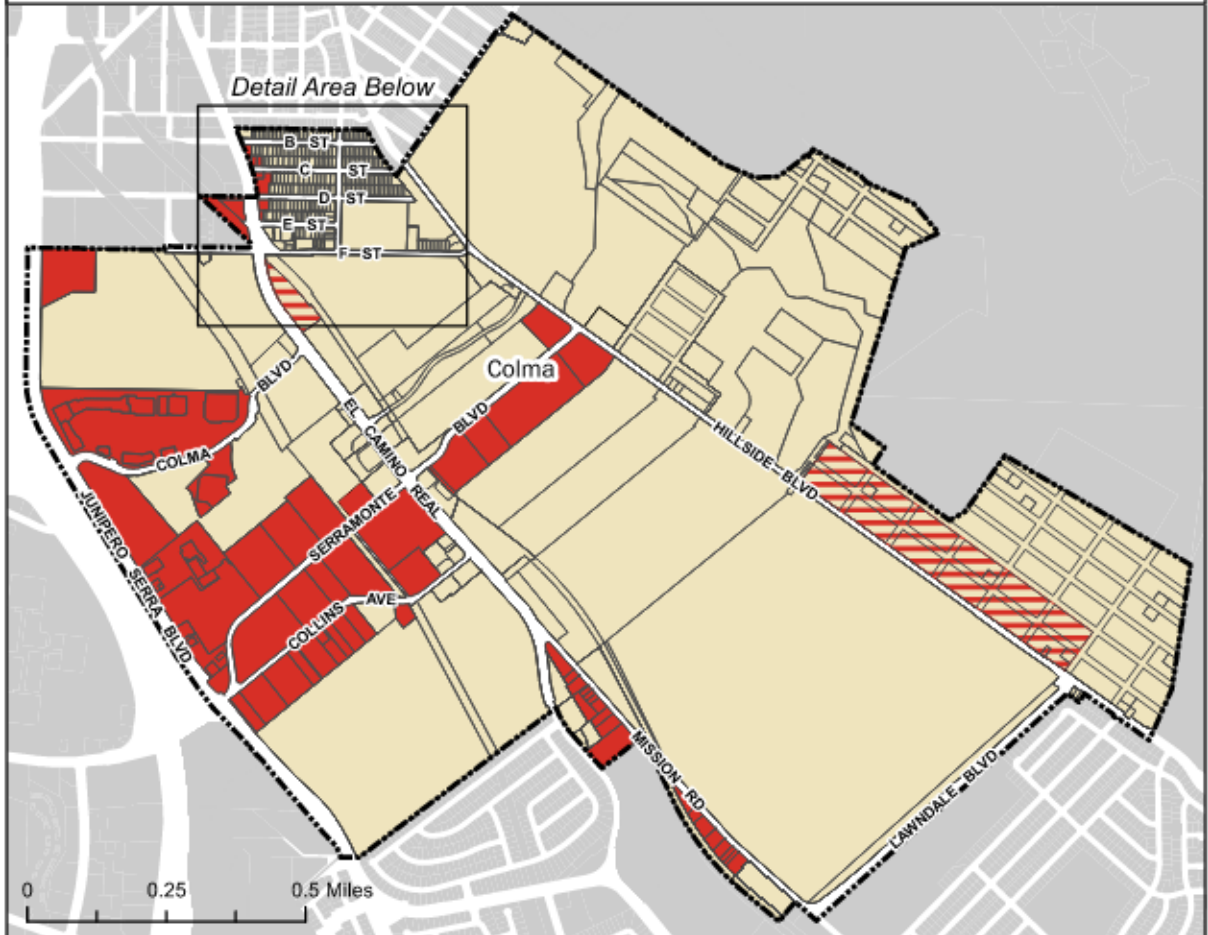
The regulations herein are applicable to properties zoned Commercial Overlay Zoning District and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.141 Purpose.

A Commercial Overlay District (COD) was created as part of Colma's General Plan 2040 - adopted on March 23, 2023 – that encompasses two sites: one on the east side of Hillside Boulevard with Sand Hill Road to the north and Lawndale Boulevard intersection to the south – totaling 32.8-acre contiguous area; and the three-acre triangular-shaped Italian Cemetery property located east of El Camino Real and west of BART right-a-way - Figure LU.3 of Land Use Element of the Town's General Plan 2040. The COD, in addition to the district's initial land use designation (G zoning

district), provides the general uses that are allowed in the commercial zones including commercial establishments, and the Commercial ("C") Zone development standards would apply pursuant to Colma Municipal Code Section 5.03.133. The purpose of the COD establishment is to extend the commercial zone in the Town to the two enlisted sites for greater economic development opportunities.

Town of Colma Commercial Zone Map



- Town Limits
- Parcel Boundary



Commercial Zone

- 'C' - Commercial
- 'COD' - Commercial Overlay District (may be combined with any base zone)



Comprehensive zoning information is shown on separate maps included in this document.



Prepared by CSG Consultants, Inc., January 2024.

IX. "DR" – Design Review Combining Zone

5.03.150 Regulations Established.

The regulations herein are applicable to properties zoned Design Review Combining and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.151 Purpose.

The "DR" Design Review zone may be combined with all base zones to achieve a consistent site, landscape and building design theme in those areas where it is applied.

[*History:* formerly § 5.315; ORD. 500, 10/9/96; ORD. 638, 12/14/05]

5.03.152 "DR" - Design Review Combining Zone Design Standards and Procedures.

(a) Such zone shall be in addition to and lay over the land use zones set forth in section 5.03.050, above. All real property from the junction of Mission Road and El Camino Real on the south to the junction of F Street and El Camino Real on the north, and from Junipero Serra Boulevard on the west to the Town limits on the east, plus all property fronting on Mission Road, shall be in the "DR" Zone.

(b) *Applicability.* The requirements of this section shall apply to all site, landscape and building plans, whether submitted in connection with the construction of a new building or an alteration or modification to the structure or façade of an existing building, within the area described in Section 5.03.040(d) with the following exceptions:

(1) An addition or modification to an existing building where the addition or modification, if it were to conform to the DR standards, would clash with the building's established architectural theme.

(2) Construction of secondary or accessory structures on parcels with existing buildings where the new building plans, were they to conform to the DR standards, would clash with existing improvements having recognized historical or architectural merit.

(3) Construction of new buildings on cemetery grounds with a G base zone, where the new site and building plans, were they to conform to the DR standards, would clash with existing improvements having recognized historical or architectural merit.

(4) Wireless Communications Facilities in the "DR" Zone shall be subject to the requirements of subchapter 5.17 only.

(c) *DR (S) Design Standards.* All plans for development in the portion of the "DR" Zone which are designated with an "(S)" shall incorporate building, site and landscape design elements representing the Spanish/Mediterranean style as defined in the following subsections.

(1) Building Design Elements. Principal structures and secondary structures such as,

storage buildings and trash enclosures must be architecturally consistent. The following design elements must be present in all buildings:

(i) Buildings shall incorporate simple, stepped massing, highlighted with towers, cupolas and varied chimney forms. Flat walls shall be minimized by interruptions using balconies, patios, shed roof elements, clerestory windows, gable end or trellis arcades and colonnades of stylized columns or arches.

(ii) Roofs shall be low pitched gable and shed roof types with terra-cotta or similar colored real, individual Spanish barrel tile. No manufactured tile or sheets of tile may be used. All flat roof areas shall be surrounded by a parapet wall and must not be located where they can be viewed from adjacent buildings or property. Parapet walls shall be of such height that will completely screen all rooftop equipment.

(iii) Wall surfaces shall be composed primarily of stucco and must be articulated by use of columns, piers and pilasters. Window and door openings shall be varied in size and articulated by use of deep reveals, exposed lintels and sills, iron grillwork and faux balconies. Arched openings are encouraged.

(iv) Door and window openings shall be designed to convey the thickness of masonry construction by recessing the doors and windows and using ornamental surrounds. Ornamentation may consist of stucco moldings, bands of tile or other framing. Glass areas must be broken up by mullions. Operable casement or double hung windows are encouraged.

Windows can be covered externally with appropriately designed grilles integral to the surface of the building.

(v) New development projects shall document adequate water supplies for fire suppression.

(2) Site and Landscape Design Elements. The following elements must be present in the site and landscape designs:

(i) Site plan and landscape design must appropriately integrate and conceal utility vaults, back flow prevention devices, trash dumpsters and other accessory elements that may not be compatible with the Spanish- Mediterranean theme.

(ii) A formal balanced planting layout shall be achieved by using elements such as landscape entry features, tree lined walks and drives, and boundary tree rows. Formal placement of trees in courts, pavilions and parking lots can significantly enhance the character of these public and private areas. Use of accent features such as brightly colored flowers and palm trees is encouraged. Drought tolerant and California native plant materials are encouraged.

(iii) Landscape design shall incorporate features such as arbors, trellises, fountains, walks, pavilions, curbs, light standards, benches, sculpture, enhanced pavement (materials, textures and patterns), garden walls (free standing and

retaining), wood fences and gates, ironwork gates and railings, planting pots and urns in order to integrate the Spanish/Mediterranean design theme throughout the overall project design.

(iv) Underground and screen utilities in new developments, at a minimum from the nearest Underground above-ground pole to the building. Transformer shall be located as far away from a public street as possible and shall be screened from view by landscaping to the extent feasible.

(v) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-sensitive land uses.

(vi) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.

(vii) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.

(viii) Recreation Requirements for New Developments. All new development shall require dedication of improved land, or payment of a fee in-lieu of, for park and recreation land for all residential uses.

(ix) Sensitive Biological Habitats. Require new development on or near sensitive habitats, such as open creeks, ponds, and other water features, to be subject to an investigation and study of the presence of the threatened Red-legged frog and endangered San Francisco Garter Snake.

(x) Habitat Enhancement. Require new development to minimize the disturbance of natural habitats and vegetation, and revegetation of disturbed habitat with native and/or non-invasive, naturalized species.

(xi) Nesting Bird Protection. Require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove or be in close proximity to any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.

(xii) Water Conservation. Promote the conservation and efficient use of water in new and existing residences and commercial buildings and sites.

(xiii) Water Efficient Landscape. Review landscape and hardscape installations

as part of new development to ensure compliance with water conservation requirements in the Water Efficient Landscape Ordinance.

(xiv) Cultural Sites and Historic Resources. Consult with Colma Historical Association on discretionary review projects involving cultural sites and historic resources in the Town of Colma.

(d) *DR Design Standards.* All plans for development in the "DR" Zone without an "(S)" designation shall incorporate building, site and landscape design elements that are appropriate for the setting based on surrounding properties as defined in the following subsections.

(1) Building Design Elements. Principal structures and secondary structures such as, storage buildings and trash enclosures must be architecturally consistent with each other. The following design elements must be present in all buildings:

(i) Buildings shall incorporate simple, stepped massing. Flat walls shall be composed of a durable material and shall be minimized by interruptions including wall off-sets, varied use of materials, trim banding, score lines, trim molding, contrasting colors, trellises etc. The use of tower or articulated roof elements is encouraged.

(ii) Roofs shall be low pitched gable and shed roof types. All flat roof areas shall be surrounded by a parapet wall and must not be located where they can be viewed from adjacent buildings or property. Parapet walls shall be of such height that will completely screen all rooftop equipment.

(2) Site and Landscape Design Elements. The following elements must be present in the site and landscape designs:

(i) Site plan and landscape design must appropriately integrate and conceal utility vaults, back flow prevention devices, trash dumpsters and other accessory elements.

(ii) A formal balanced planting layout shall be achieved by using elements such as landscape entry features, tree lined walks and drives, and boundary tree rows. Formal placement of trees in courts, pavilions and parking lots can significantly enhance the character of these public and private areas. Use of accent features such as brightly colored flowers and palm trees is encouraged. Drought tolerant and California native plant materials are encouraged.

(iii) Landscape design shall incorporate features such as arbors, trellises, fountains, walks, pavilions, curbs, light standards, benches, sculpture, enhanced pavement (materials, textures and patterns), garden walls (free standing and retaining), wood fences and gates, ironwork gates and railings, planting pots and urns as appropriate to the project.

(iv) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-

sensitive land uses.

(v) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.

(vi) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.

(vii) Recreation Requirements for New Developments. All new development shall require dedication of improved land, or payment of a fee in-lieu of, for park and recreation land for all residential uses.

(1) Require new grading or development to prevent erosion on slope and hillside areas by revegetation or use of slope protection material. Require project grading and drainage plans to demonstrate how the project will maintain natural surface drainage and existing vegetation, to the extent feasible.

(2) Tent Structures are allowed, subject to the following design standards. All Tent Structures are considered structures and therefore may only be installed pursuant to a valid Building Permit.

(i) Tents shall be located only on paved areas and not on approved landscaping. Tents shall not block any access aisles or fire lanes. A total of three tents per property are permitted at any given time, not to exceed 400 square feet each (1,200 square feet total). Exceptions may be granted by the City Planner for infrequent special events.

(ii) Tents shall be made of high quality fire retardant materials, and must be in colors which are consistent with color that matches the principal building on the site or approved signage on the property. Tents shall be securely fastened according to accepted engineering practices.

(viii) Green Infrastructure. Incorporate green infrastructure, which relies on natural processes for stormwater treatment/drainage, groundwater recharge and flood control, into street and rights-of-way wherever applicable, including curb cuts, flow-through planters and bioswales that slow stormwater runoff by dispersing it to vegetated areas, harvesting and use of runoff, and promote infiltration and use of bioretention to clean stormwater runoff.

(ix) Storm Water Runoff. Require large-scale projects (over 0.5 acres) to channel surface and roof runoff to on-site detention facilities to facilitate groundwater recharge, reduce stormwater pollution, and mitigate flooding of Colma Creek.

(x) Sensitive Biological Habitats. Require new development on or near sensitive habitats, such as open creeks, ponds, and other water features, to be subject to an investigation and study of the presence of the threatened Red-legged frog and endangered San Francisco Garter Snake.

(xi) Habitat Enhancement. Require new development to minimize the disturbance of natural habitats and vegetation, and revegetation of disturbed habitat with native and/or non-invasive, naturalized species.

(xii) Nesting Bird Protection. Require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove or be in close proximity to any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.

(xiii) Water Conservation. Promote the conservation and efficient use of water in new and existing residences and commercial buildings and sites.

(xiv) Water Efficient Landscape. Review landscape and hardscape installations as part of new development to ensure compliance with water conservation requirements in the Water Efficient Landscape Ordinance.

(xv) Cultural Sites and Historic Resources. Consult with Colma Historical Association on discretionary review projects involving cultural sites and historic resources in the Town of Colma.

(e) *Design Review Procedure and Approval.* No grading or building permit shall be issued until design plans have been reviewed and approved. Plans shall be submitted to the City Planner for review and approval according to the following procedures:

(1) *City Council Approval.* Whenever the project requires approval of a Use Permit, Subdivision Map, Planned Unit Development, or other action by the City Council, then the City Council shall also, at that time, make the determination to approve the design in accordance with this ordinance. Determinations made by the City Council may be reconsidered in accordance with the procedures set forth at Section 5.03.243.

(2) *Zoning Administrator Approval.* The Zoning Administrator shall make the determination to approve the design of all projects other than those described in the preceding paragraph, and any determination by the Zoning Administrator may be appealed by any interested party to the City Council in accordance with the procedures set forth in section 1.02.140 of the Colma Municipal Code.

(3) *Modification of Standards.* The City Council or Zoning Administrator may, in its sole discretion, modify the application of these *DR Design Standards* to a modification or addition of an existing building after considering: (a) the nature of the specific standard

or standards to be applied; (b) the economic impact of strict compliance with these standards on the property; and (c) the extent to which strict compliance interferes with the property owner's investment-backed expectations.

(4) *Findings.* The City Council or Zoning Administrator, as appropriate, may approve a design only if it finds that:

(i) The architectural, site and landscape design of the proposed project incorporates design elements adopted for the "DR" Zone.

(ii) The architectural, site and landscape design substantially reflects the goal of the "DR" Zone to achieve a consistent site, landscape and building design theme for the Town of Colma.

(5) *Fees.* Design review fees shall be set forth in the Town of Colma Master Fee Schedule.

[*History:* formerly § 5.333, ORD, 467, 6/8/94; ORD. 500, 10/9/96; ORD. 521, 12/10/97; ORD. 524, 1/14/98; Ord. 551, 4/14/1999; ORD. 638, 12/14/05; ORD. 707, 4/11/11; ORD. 748, 9/9/15]

5.03.153 Restrictions and Procedures Applicable to the "DR" - Design Review Combining Zone.

(a) *Applicability.* The requirements of this section shall apply to all site, landscape and building plans, whether submitted in connection with the construction of a new building or an alteration or modification to the structure or façade of an existing building, within the area described in Section 5.03.040(d) with the following exceptions:

(1) An addition or modification to an existing building where the addition or modification, if it were to conform to the DR standards, would clash with the building's established architectural theme.

(2) Construction of secondary or accessory structures on parcels with existing buildings where the new building plans, were they to conform to the DR standards, would clash with existing improvements having recognized historical or architectural merit.

(3) Construction of new buildings on cemetery grounds with a G base zone, where the new site and building plans, were they to conform to the DR standards, would clash with existing improvements having recognized historical or architectural merit.

(4) Wireless Communications Facilities in the "DR" Zone shall be subject to the requirements of subchapter 5.17 only.

(b) *DR (S) Design Standards.* All plans for development in the portion of the "DR" Zone which are designated with an "(S)" shall incorporate building, site and landscape design elements representing the Spanish/Mediterranean style as defined in the following subsections. The aforementioned does not apply to new solar panels and its supporting structure (i.e., carport) in

existing parking lots within the DR(S) Zoning District.

(1) Building Design Elements. Principal structures and secondary structures such as, storage buildings and trash enclosures must be architecturally consistent. The following design elements must be present in all buildings:

(i) Buildings shall incorporate simple, stepped massing, highlighted with towers, cupolas and varied chimney forms. Flat walls shall be minimized by interruptions using balconies, patios, shed roof elements, clerestory windows, gable end or trellis arcades and colonnades of stylized columns or arches.

(ii) Roofs shall be low pitched gable and shed roof types with terra-cotta or similar colored real, individual Spanish barrel tile. No manufactured tile or sheets of tile may be used. All flat roof areas shall be surrounded by a parapet wall and must not be located where they can be viewed from adjacent buildings or property. Parapet walls shall be of such height that will completely screen all rooftop equipment.

(iii) Wall surfaces shall be composed primarily of stucco and must be articulated by use of columns, piers and pilasters. Window and door openings shall be varied in size and articulated by use of deep reveals, exposed lintels and sills, iron grillwork and faux balconies. Arched openings are encouraged.

(iv) Door and window openings shall be designed to convey the thickness of masonry construction by recessing the doors and windows and using ornamental surrounds. Ornamentation may consist of stucco moldings, bands of tile or other framing. Glass areas must be broken up by mullions. Operable casement or double hung windows are encouraged. Windows can be covered externally with appropriately designed grilles integral to the surface of the building.

(2) Site and Landscape Design Elements. The following elements must be present in the site and landscape designs:

(i) Site plan and landscape design must appropriately integrate and conceal utility vaults, back flow prevention devices, trash dumpsters and other accessory elements that may not be compatible with the Spanish- Mediterranean theme.

(ii) A formal balanced planting layout shall be achieved by using elements such as landscape entry features, tree lined walks and drives, and boundary tree rows. Formal placement of trees in courts, pavilions and parking lots can significantly enhance the character of these public and private areas. Use of accent features such as brightly colored flowers and palm trees is encouraged. Drought tolerant and California native plant materials are encouraged.

(iii) Landscape design shall incorporate features such as arbors, trellises, fountains, walks, pavilions, curbs, light standards, benches, sculpture, enhanced pavement (materials, textures and patterns), garden walls (free standing and retaining), wood fences and gates, ironwork gates and railings, planting pots and urns in order to integrate the Spanish/Mediterranean design theme

throughout the overall project design.

(c) *DR Design Standards.* All plans for development in the "DR" Zone without an "(S)" designation shall incorporate building, site and landscape design elements that are appropriate for the setting based on surrounding properties as defined in the following subsections.

(1) **Building Design Elements.** Principal structures and secondary structures such as, storage buildings and trash enclosures must be architecturally consistent with each other. The following design elements must be present in all buildings:

(i) Buildings shall incorporate simple, stepped massing. Flat walls shall be composed of a durable material and shall be minimized by interruptions including wall off-sets, varied use of materials, trim banding, score lines, trim molding, contrasting colors, trellises etc. The use of tower or articulated roof elements is encouraged.

(ii) Roofs shall be low pitched gable and shed roof types. All flat roof areas shall be surrounded by a parapet wall and must not be located where they can be viewed from adjacent buildings or property. Parapet walls shall be of such height that will completely screen all rooftop equipment.

(2) **Site and Landscape Design Elements.** The following elements must be present in the site and landscape designs:

(i) Site plan and landscape design must appropriately integrate and conceal utility vaults, back flow prevention devices, trash dumpsters and other accessory elements.

(ii) A formal balanced planting layout shall be achieved by using elements such as landscape entry features, tree lined walks and drives, and boundary tree rows. Formal placement of trees in courts, pavilions and parking lots can significantly enhance the character of these public and private areas. Use of accent features such as brightly colored flowers and palm trees is encouraged. Drought tolerant and California native plant materials are encouraged.

(iii) Landscape design shall incorporate features such as arbors, trellises, fountains, walks, pavilions, curbs, light standards, benches, sculpture, enhanced pavement (materials, textures and patterns), garden walls (free standing and retaining), wood fences and gates, ironwork gates and railings, planting pots and urns as appropriate to the project.

(3) **Tent Structures** are allowed, subject to the following design standards. All Tent Structures are considered structures and therefore may only be installed pursuant to a valid Building Permit.

(i) Tents shall be located only on paved areas and not on approved landscaping. Tents shall not block any access aisles or fire lanes. A total of three tents per property are permitted at any given time, not to exceed 400 square feet each (1,200 square feet total). Exceptions may be granted by the City Planner for infrequent special events.

(ii) Tents shall be made of high quality fire retardant materials, and must be in colors which are consistent with color that matches the principal building on the site or approved signage on the property. Tents shall be securely fastened according to accepted engineering practices.

(d) *Design Review Procedure and Approval.* No grading or building permit shall be issued until design plans have been reviewed and approved. Plans shall be submitted to the City Planner for review and approval according to the following procedures:

(1) *City Council Approval.* Whenever the project requires approval of a Use Permit, Subdivision Map, Planned Unit Development, or other action by the City Council, then the City Council shall also, at that time, make the determination to approve the design in accordance with this ordinance. Determinations made by the City Council may be reconsidered in accordance with the procedure set forth at Section 5.03.420.

(2) *Zoning Administrator Approval.* The Zoning Administrator shall make the determination to approve the design of all projects other than those described in the preceding paragraph, and any determination by the Zoning Administrator may be appealed by any interested party to the City Council in accordance with the procedures set forth in section 1.02.140 of the Colma Municipal Code. The design review project for 'G' Zone monumental buildings in cemetery zones of 300 square feet or less are not subject to Design Review approval by the Zoning Administrator.

(3) *Modification of Standards.* The City Council or Zoning Administrator may, in its sole discretion, modify the application of these *DR Design Standards* to a modification or addition of an existing building after considering: (a) the nature of the specific standard or standards to be applied; (b) the economic impact of strict compliance with these standards on the property; and (c) the extent to which strict compliance interferes with the property owner's investment-backed expectations.

(4) *Findings.* The City Council or Zoning Administrator, as appropriate, may approve a design only if it finds that:

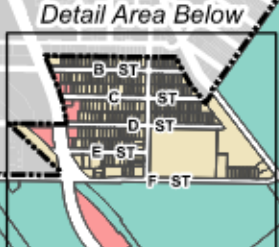
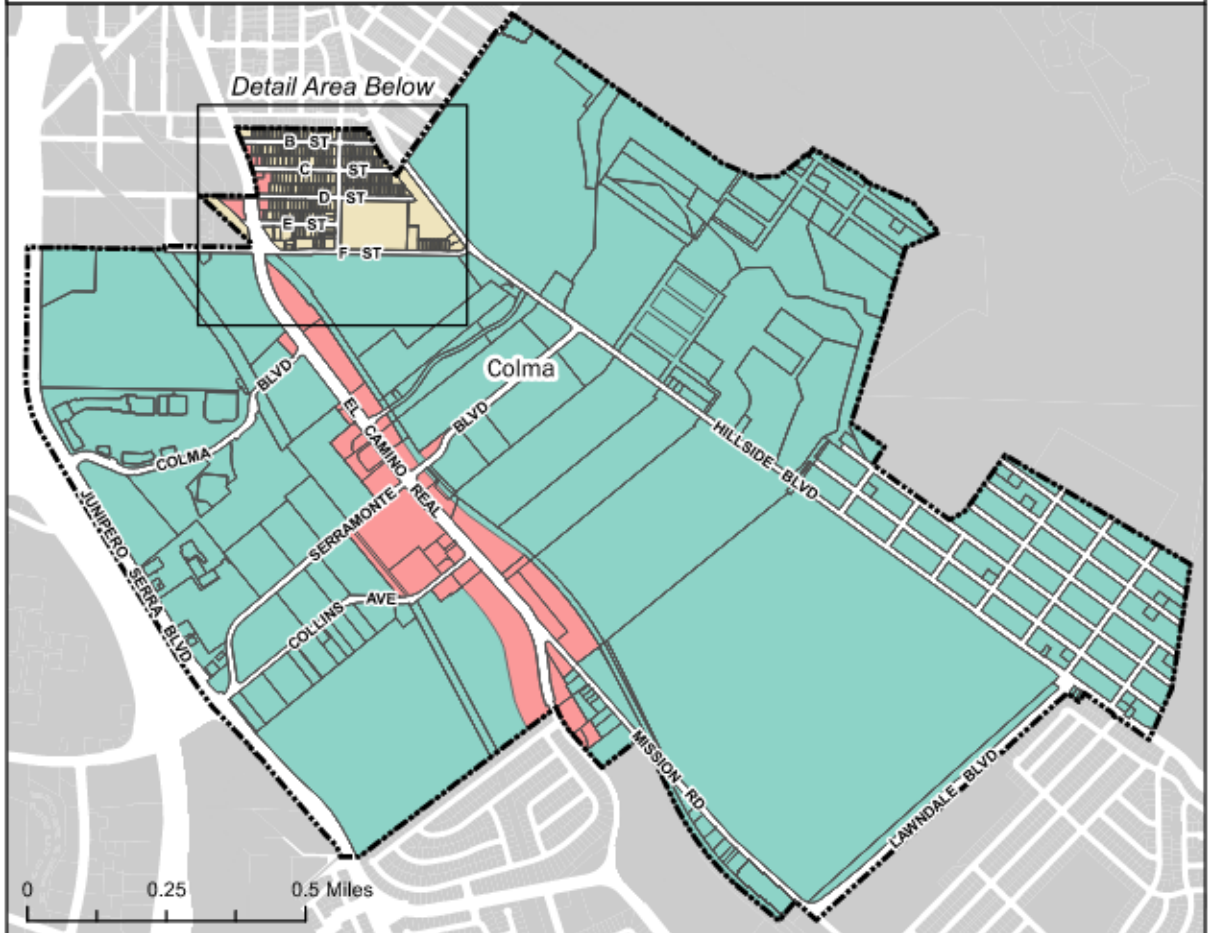
(i) The architectural, site and landscape design of the proposed project incorporates design elements adopted for the "DR" Zone.

(ii) The architectural, site and landscape design substantially reflects the goal of the "DR" Zone to achieve a consistent site, landscape and building design theme for the Town of Colma.

(5) *Fees.* Design review fees shall be set forth in the Town of Colma Master Fee Schedule.

[*History:* formerly § 5.333, ORD, 467, 6/8/94; ORD. 500, 10/9/96; ORD. 521, 12/10/97; ORD. 524, 1/14/98; Ord. 551, 4/14/1999; ORD. 638, 12/14/05; ORD. 707, 4/11/11; ORD. 748, 9/9/15]

Town of Colma Design Review Combining Zone Map



- Town Limits
- Parcel Boundary



Design Review Combining Zone

May be combined with all base zones.

- 'DR' - Design Review
- 'DR(S)' - Design Review/ Spanish Mediterranean



Comprehensive zoning information is shown on separate maps included in this document.



Prepared by CSG Consultants, Inc., January 2024.

5.03.154 Objective Design Standards (ODDS) for Planned Development (PD) and Commercial (C) Zone Districts.

a) *Applicability.* The following objective design standards shall apply to residential projects consisting of multi-family residential units only or mixed-use buildings within the "PD" and "C" Zone Districts, as defined below.

(1) *Mixed-use:* a building consisting of residential and non-residential uses (e.g., commercial retail, retail service, office, civic, and institutional) with at least two-thirds of the square footage designated for residential use, transitional housing, or supportive housing.

(2) *Multi-family Dwelling:* a residential structure containing two or more residential dwelling units, each of which is for the occupancy by one or more persons, including duplexes, triplexes, fourplexes, apartments, condominiums, and townhouses.

b) *Building Entries, Stairwells, and Garages.* To create an attractive, welcoming, safe, and active interface between private development and public spaces, buildings and site design shall meet the following objective criteria:

(1) All residential developments

i. Residential entries: residential units that are not adjacent to the street shall have front entries that are oriented to common areas such as paseos, courtyards, parking areas, and active landscape areas. (CPTED)¹

ii. Exterior stairwells: exterior stairwells shall not be oriented to the street. For safety and security, exterior stairwells shall face interior spaces, such as plazas and gathering areas, parking areas, and pedestrian pathways, and shall not be separated from these areas by landscaping, fences, or walls taller than three feet. (CPTED).

iii. Access control: gated, fenced, underground parking facilities and gated exterior stairwells shall incorporate access control technology (e.g., access card or key).

iv. Security camera system: developments with more than 12 units shall incorporate a monitored or recorded security system.

(2) Multi-family residential developments

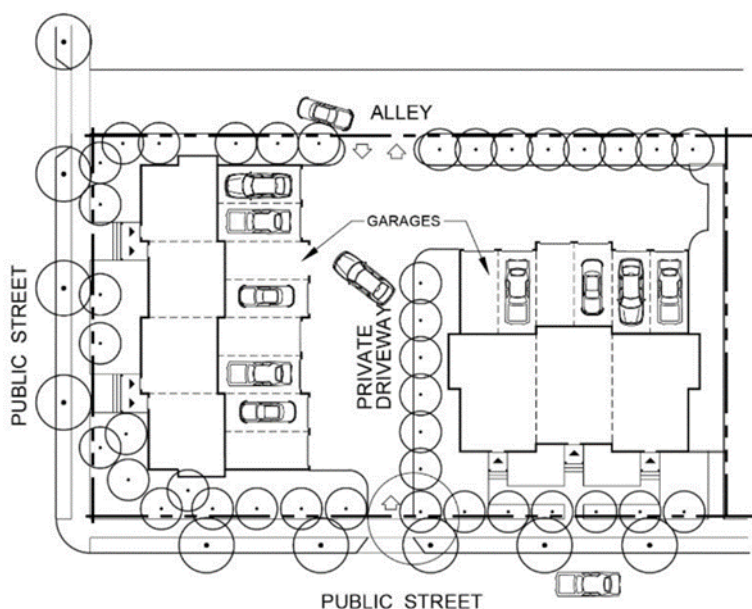
i. Front entries: buildings positioned along the street shall orient front entries to the street. Street facing residential units shall have covered entries with a minimum recess or projection of 48 square feet in area.

ii. Entryway design: street facing entries shall be accentuated by a minimum of one (1) of the following:

¹ (CPTED indicates a standard that addresses crime prevention through environmental design

- A. a change in roof pitch or form, such as a gable, that extends a minimum of one foot past the sides of the floor jamb.
 - B. an increase in roof height of a least one (1) foot to accentuate the entry.
 - C. wood, stone, tile, or brick accent materials covering a minimum of 30 percent of the entryway wall surface area, inclusive of windows and doors.
- iii. Garage doors: for projects containing (5) or more units, garage doors shall not face a public street(s) but may be oriented toward an alley or private street/driveway that is internal to the project. All garage doors shall be recessed a minimum of six (6) inches from the surrounding building wall and shall include trim of at least one and a half (1.5) inches in depth.

FIGURE 1: GARAGE DOOR ORIENTATION, PROJECTS WITH FIVE OR MORE UNITS



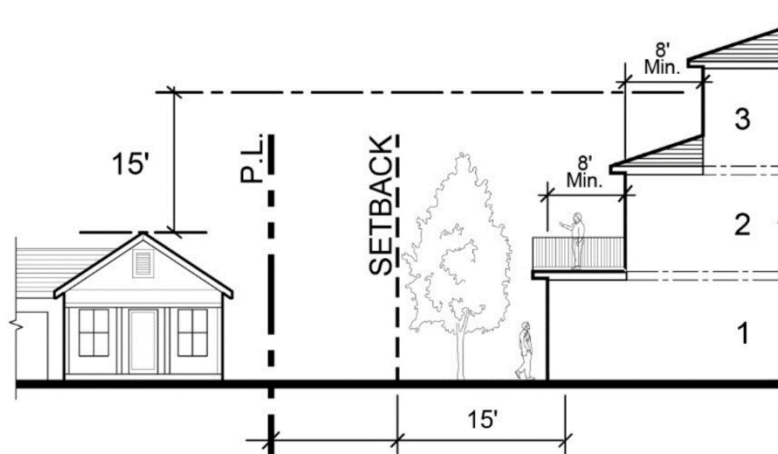
(3) Mixed-use residential developments

- i. Commercial/office units: commercial/office unit entrances shall face the street, a parking area, or an interior common space.
- ii. Residential units: residential units in a mixed-use development shall be located on the upper floors of any elevation that faces a public street with residential access provided through a separate entry along each frontage or a single entry at the corner.

c) Massing and articulation. To create a human-scale environment and buildings that are compatible with and enhance the surrounding area, building design shall meet the following objective criteria:

a. Residential adjacencies. The side and rear walls of any building within 15 feet of a required setback shall be a maximum of 15 feet higher than the directly adjacent existing residential structure, or the exterior wall plane of each floor above the ground floor shall be stepped back by a minimum of eight (8) feet along the entire facade. There is no stepback requirement for side and rear walls more than 15 feet from the required setback line.

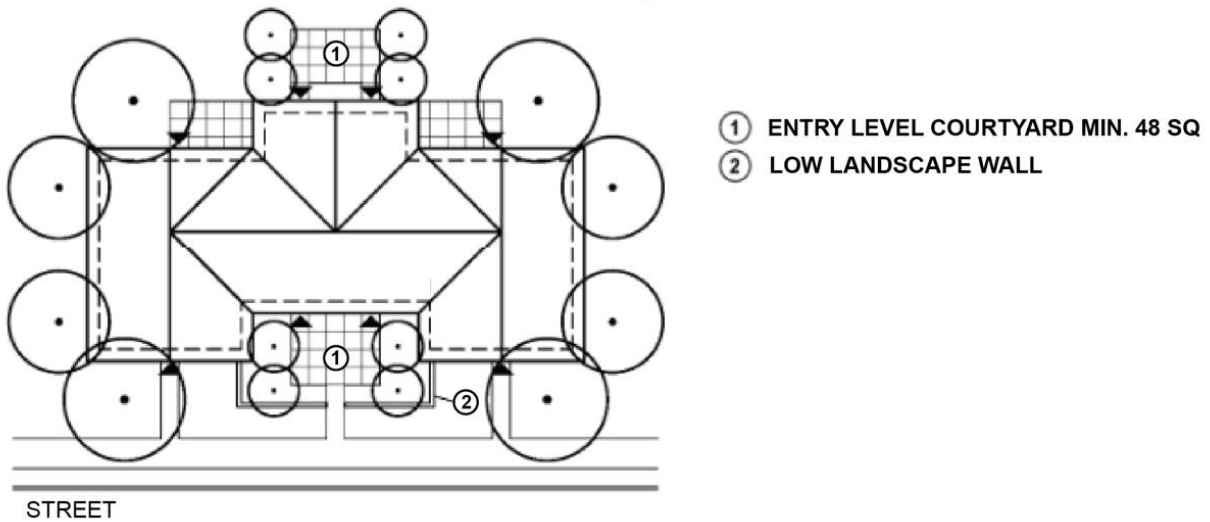
FIGURE 2: SIDE AND REAR WALLS ADJACENT TO AN EXISTING RESIDENTIAL USE



(2) Major massing breaks. Buildings shall have major massing breaks along any street frontage or publicly visible area, by incorporating at least one (1) of the following features.

- i. stepping back each subsequent floor by a minimum of eight feet;
- ii. recessed or projected covered entries with a minimum of 24 square feet;
- iii. ground floor building recessions that provide sheltered walkways within the building footprint with a minimum width of eight feet;
- iv. ground floor courtyards within the building footprint with a minimum area of 48 square feet; or

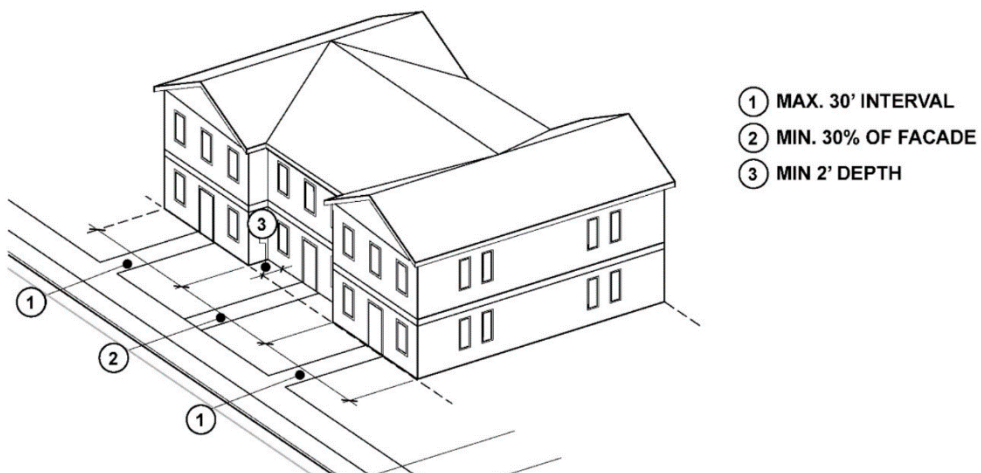
FIGURE 3: MAJOR MASSING BREAKS, GROUND FLOOR COURTYARDS



(3) Minor massing breaks. Buildings shall have minor massing breaks at least every 30 feet along any elevation by incorporating at least one (1) of the following features:

- i. doors and windows recessed by a minimum of four (4) inches;
- ii. variations in wall plane (projection or recess) by a minimum of two (2) feet in depth for at least 30 percent of the facade;
- iii. vertical elements, such as pilasters, that protrude a minimum of one (1) foot from the wall surface and extend the full height of the structure; or
- iv. any of the major massing breaks noted above can be double counted as a minor massing break, so long as it is located within the 30-foot section.

FIGURE 4: MINOR MASSING BREAKS, VARIATION IN WALL PLANE



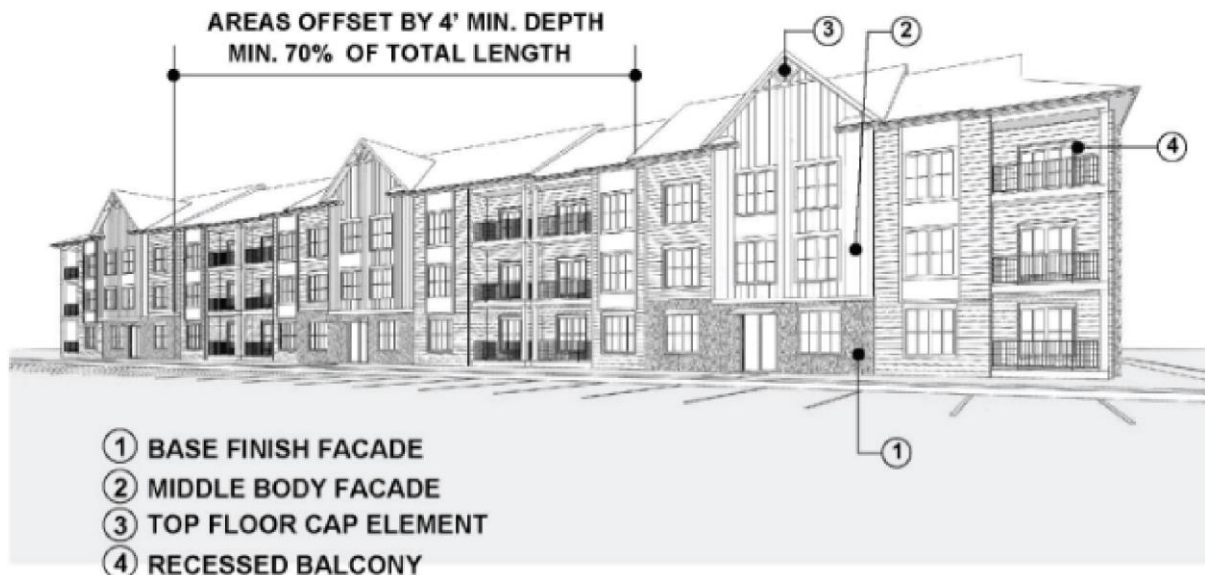
(4) Roofline articulation. Rooflines shall be vertically articulated at least every 36-feet along the street frontage through one (1) of the following techniques:

- i. A change in wall or roof height of a minimum four (4) feet;
- ii. A change in roof pitch or form; or
- iii. The inclusion of dormers, gables, parapets, and/or varying cornices.

(5) Building variation. This section shall apply to non-DR(S) zone sites only. Buildings three (3) stories or taller and wider than 30 feet shall be designed to differentiate the ground floor, middle body, and top floor or cornice/parapet cap. Each of these elements shall be distinguished from one another through use of one (1) of the following techniques:

- i. Variation in building modulation for a minimum of 70 percent of the length of the facade, through changes in wall planes that protrude and/or recess with a minimum dimension of four (4) feet);
- ii. Balconies or habitable projects with a minimum of two (2) feet in depth for a minimum 25 percent of the length of the facade;
- iii. Variation in facade articulation, through horizontal and/or vertical recesses or projections (minimum four (4) inches in depth) such as shading and weather protection devices, decorative architectural details, or a pattern or grouping of windows, panels, or bay windows;

FIGURE 5: BUILDING VARIATION BY MODULATION, BUILDINGS THREE STORIES OR TALLER (Applies to Non-DR(S) Overlay Areas)



- iv. Variation in fenestration, through at least two (2) of the following; size², proportion³, or pattern; or
- v. Variation in facade material, through at least two (2) of the following: size⁴, texture, pattern, or color.

FIGURE 6: BUILDING VARIATION IN FENESTRATION, BUILDINGS THREE STORIES OR TALLER (Applies to Non-DR(S) Overlay Areas)



d) Architectural Elements: To create a sense of place within buildings that are cohesive, well-crafted, and enhance the public’s experience, buildings shall be designed to meet the following objective criteria.

(1) Corner treatments: corner buildings that are two (2) stories in height shall include at least one (1) of the following features within 15 feet from each edge of the building corner. Buildings that are three (3) or more stories in height shall incorporate a minimum of two (2) of the following features within 15 feet from each edge of the building corner:

- i. change in primary wall material and color;
- ii. change in height of more than (4) feet;
- iii. change in wall plane of a minimum depth of two (2) feet;
- iv. entry to ground floor retail or primary building entrance;
- v. different fenestration pattern from the primary facade;
- vi. open space with a minimum dimension of 16 feet and minimum area of 450 square feet, which accommodates either a publicly accessible courtyard/plaza, or outdoor public seating.

² including: incorporating a setback, recession, or projection with a minimum depth of four (4) feet.

³ Including: a change in the surface area occupied by windows, doors, balconies, or trim by a minimum of 15 percent.

⁴ Including: a change in depth of at least four (4) inches).

(2) End units: End units shall include the following features on their side elevations: a minimum 15 percent fenestration area, and at least one (1) facade modulation with a minimum depth of 18 inches and a minimum width of two (2) feet. Example: wrap around front porch.

(3) Balconies, Patios, and Porches: All ground floor residential units a minimum of 51 percent of the upper floor residential units shall include a balcony, patio, porch, or stoop, and this feature shall be a minimum of 48 square feet in area. Fractional calculations shall be rounded up. Balcony walls above the ground floor shall be a maximum of 15 percent transparent.

FIGURE 7: BALCONIES, PATIOS, AND PORCHES



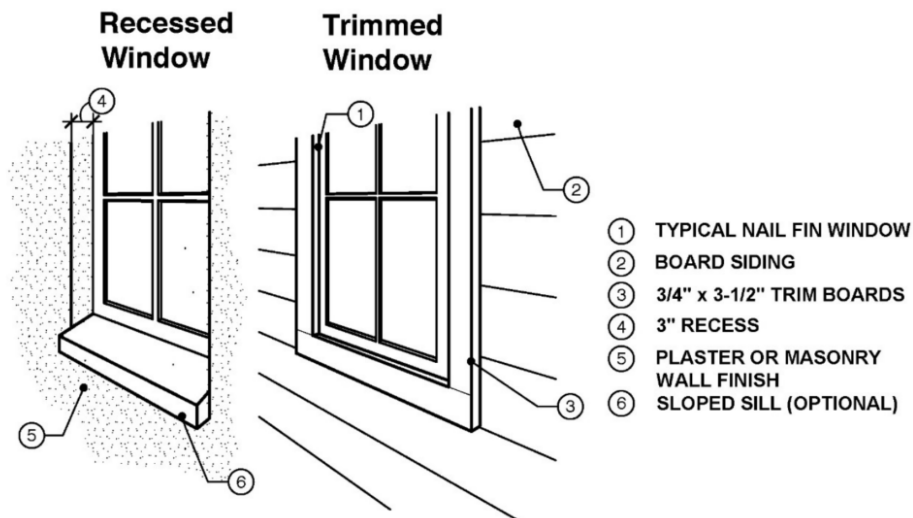
(4) Facade transparency: At least 60 percent of the ground floor, street facing walls of non-residential units shall include transparent window or door glazing between two (2) and ten (10) feet in height from grade, providing unobstructed views into the non-residential space. Where it is infeasible to provide glazing, such as a parking garage, trash room, mechanical room, or electrical room, landscaping with a minimum dimension of 18-inches in depth and a width equivalent to 70 percent of the wall shall be provided to soften the appearance of a blank wall on the ground floor.

FIGURE 8: MIXED USE FAÇADE TRANSPARENCY



(5) Windows and doors: Windows and doors shall either be trimmed or recessed. When trimmed, the trim material shall not be less than 3.5" in width by 3/4" in depth from the wall. Foam trim molding is prohibited on the ground floor. When recessed, the building primary siding material (masonry or stucco) shall cover the recessed edge faces and wrap toward the interior face of the window glazing or door face by not less than 3" in depth.

FIGURE 9: WINDOW AND DOOR TRIM



(6) Personal outdoor space: A minimum of 10 square feet (80 cubic feet) of personal outdoor public storage space shall be provided for each dwelling unit. Personal outdoor storage ages shall be covered and able to be locked.

e) Colors and Materials. To ensure that buildings include a variety of color palettes and textures with durable and attractive materials that contribute to the aesthetic quality of the development and the neighborhood, buildings shall be designed to meet the following objective criteria:

(1) Primary wall finish material: The primary wall finish material⁵ shall be wood, stone, brick, stucco, fiber cement, or other cementitious material, or stone. T1-11 siding and all grooved or patterned wood panel or composite wood panel siding are prohibited.

(2) Required number of materials: Structures shall incorporate a minimum of two (2) building materials on each building elevation. Trim does not count as the second material.

(3) Colors: structures shall have a color palette that consists of at least two (2) body colors and two (2) accent colors (not including roof color). Projects with two (2) or more residential structures shall include a minimum of two (2) color palettes and shall not use a single palette on more than 70 percent of the residential structures. Stone materials shall not be painted.

f) Circulation. To provide pedestrians, vehicles, and cyclists with safe and efficient site access and circulation, site design shall meet the following objective criteria:

(1) Pedestrian circulation: all structures, entries, facilities, amenities, and parking areas shall be internally connected with pedestrian pathways. Pedestrian pathways shall connect to the public sidewalk along each street frontage. Pedestrian pathways shall be separated from roads and parking areas by a physical barrier, such as a grade-separation, of six inches or more or a raised planting strip.

(2) Vehicular circulation: all parking areas shall be internally connected and shall use shared driveways within the development.

(3) Carports: carports shall be painted with the approved color palette for the project.

(4) Parking: parking shall not be located between the building frontage and a public sidewalk. Uncovered parking areas shall include a landscaped break with one (1) tree and a minimum width of five (5) feet at intervals of a maximum of every 12 parking stalls.

(5) Bicycle parking: all structures with dwelling units shall provide short-term bike parking in the form of an inverted "U". An artistic rack may be proposed, subject to discretionary City approval. Bicycle parking shall not be separated from building entrances by a road, parking area, or structure.

(6) Covered parking spaces shall include a structure to mount solar panels.

g) Open space and common areas. To ensure that residents and visitors have access to usable open space and common facilities that provide recreational opportunities, promote a safe environment, and enhance the pedestrian experience, common area and open space design shall meet the following objective criteria:

⁵ Primary wall finish material: the material covering the largest percentage of surface area of any building face or elevation.

(1) Outdoor space: Landscaping shall be located in all outdoor areas that are not specifically used for parking, driveways, walkways, patios, or other outdoor amenities as described below.

(2) Paved areas: Paved areas shall not exceed 50 percent of the required front or street side setback area.

(3) Courtyard and gathering areas: Internal courtyards and common areas shall be visible from the street, parking areas, pedestrian pathways, and/or interior building entries. (CPTED)

(4) Public art: Developments with more than 50 units shall provide at least one public art amenity, subject to restrictions and procedures applicable to the DR (Design Review) Zone, to be approved by the City Council.

(5) Play areas: Multi-family developments with more than 10 units shall provide a play area with at least two structured play modules (e.g., slide and sand box, or tunnel and climber) and a picnic table adjacent to the play area as one of the required active outdoor amenities. Senior or convalescent type housing is exempted from the play area requirement but shall provide a shaded outdoor patio area with a minimum seating capacity of eight persons as one of the required active outdoor amenities.

(6) Outdoor amenities: Projects shall provide outdoor amenities according to the following table. Required amenity areas may be combined into a single area, if the minimum requirements for each amenity area are met within the combined area.

a) Passive recreation amenities: passive recreation amenities include community gardens, outdoor gathering/seating area, picnic/barbeque area, pet area/dog park, or courtyard/plaza. Each passive recreation area shall include a minimum seating capacity of one for each 10 units at least one of the following: trellis, gas fire pit, BBQ, or picnic table.

b) Active outdoor amenities: active recreation amenities include playground/tot lots, sport court/field, outdoor fitness area, swimming pool, exercise structure or complex, clubhouse with kitchen, recreation hall.

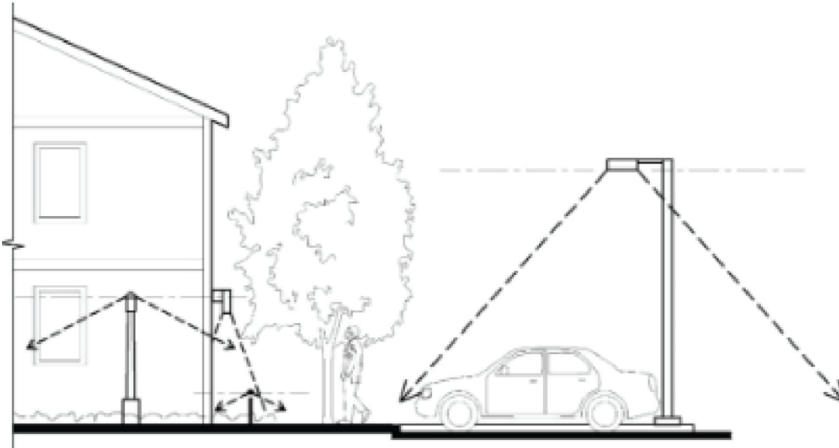
Number of Units in Development	Passive Recreation Amenities	Active Recreation Amenities
11-30	2 with a minimum area of 300 sq. ft. total	1 with a minimum area of 500 sq. ft. total
31-60	2 with a minimum area of 400 sq. ft. total	2 with a minimum area of 800 sq. ft. total
61-100	2 with a minimum area of 500 sq. ft. total	2 with a minimum area of 1,200 sq. ft. total
101+	2 with a minimum area of 600 sq. ft. total	2 with a minimum area of 2,000 sq. ft. total

h) Lighting

(1) Dusk to Dawn: All structures, entries, parking areas, refuse enclosures, active outdoor/landscape areas, and pedestrian pathways shall include dusk to dawn lighting for safety and security.

- (2) Design and Placement: Lighting shall be recessed or hooded, downward directed, and located to illuminate only the intended area.
- (3) Lighting Spill: Lighting shall not spill beyond the intended area and shall not extend across a property line.

FIGURE 10: LIGHTING DESIGN



i) Fencing

- (1) Fences and wall materials: Chain link or cyclone fences are prohibited.

j) Utilities and Service Areas

- (1) Screening: utilities and utility vaults, and all mechanical equipment shall be screened or hidden from view from the public street.
- (2) Refuse enclosures: trash, recycling, organic waste, and green waste bins shall be consistent with fire and building codes and shall be housed in a covered refuse enclosure with a gate that screens the trash receptacles. Sizing of the enclosures shall conform to solid waste provider requirements.
- (3) Refuse enclosure materials and colors: refuse enclosures shall be constructed of the same primary wall material and color as the most adjacent building within the development.
- (4) Refuse enclosure access: refuse enclosures shall have both a vehicular access gate with a concrete apron, and a pedestrian entrance. Gates shall be opaque. Access shall conform to solid waste provider requirements.

5.03.155 Manufactured Single-Family Residential Objective Design Standards (ODDS)

- a) *Applicability.* The following objective design standards shall apply to single-family residential projects within the "R" and "R-S" Sterling Park Neighborhood Zones.

b) *Building Entries.* To create an attractive, welcoming, safe, and active interface between private development and public spaces, buildings and site design shall meet the following objective criteria:

i. All residential developments

(1) Residential entries: residential units that are not adjacent to the street shall have front entries that are oriented to common areas such as paseos, courtyards, parking areas, and active landscape areas.

c) *Massing and articulation.* To create a human-scale environment and buildings that are compatible with and enhance the surrounding area, building design shall meet the following objective criteria:

i. Residential adjacencies.

(1) Front setbacks. Buildings shall have a 15' front setback in all zones. Buildings in the "R-S" Zone shall have a 19' setback from the front property line to the front face of the garage and 60% of the front setback area devoted to landscaping.

(2) Rear setbacks. Single-story buildings shall have a 15' rear setback and a two-story building shall have a 25' setback. In the "R" Zone, the rear yard shall not be less than 25 percent of the total area of the lot, but such rear yard not to exceed 25 feet; save and except any "R" Zone located in that portion of Colma bounded by F Street, Hillside Boulevard, El Camino Real, and the northern boundary of the Town of Colma, in which the rear yard shall have a depth of not less than 15 feet from the property line to the rear line of the building and a depth of no less than 25 feet from the property line for the rear line of any portion of the building above two-story.

(3) Side setback. Buildings shall have a side setback of 10 percent width of the lot or 10 feet, whichever is less.

d) *Architectural Elements:* To create a sense of place within buildings that are cohesive, well-crafted, and enhance the public's experience, buildings shall be designed to meet the following objective criteria.

(1) Corner treatments: corner buildings that are two (2) stories in height shall include at least one (1) of the following features within 15 feet from each edge of the building corner:

a. change in primary wall material and color;

b. change in height of more than (4) feet;

c. change in wall plane of a minimum depth of two (2) feet;

d. different fenestration pattern from the primary facade;

(2) End units: End units shall include the following features on their side elevations: a minimum 15 percent fenestration area, and at least one (1) facade modulation with a minimum depth of 18 inches and a minimum width of two (2) feet. Example: wrap around front porch.

(3) Windows and doors: Windows and doors shall either be trimmed or recessed. When trimmed, the trim material shall not be less than 3.5" in width by ¾" in depth from the wall. When recessed, the building primary siding material shall cover the recessed edge faces and wrap toward the interior face of the window glazing or door face by not less than 3" in depth. Refer to Figure 9 above.

e) Colors and Materials. To ensure that buildings include a variety of color palettes and textures with durable and attractive materials that contribute to the aesthetic quality of the development and the neighborhood, buildings shall be designed to meet the following objective criteria:

(1) Required number of materials: Structures shall incorporate a minimum of two (2) building materials on each building elevation. Trim does not count as the second material.

(2) Colors: structures shall have a color palette that consists of at least two (2) body colors and two (2) accent colors (not including roof color). Projects with two (2) or more residential structures shall include a minimum of two (2) color palettes and shall not use a single palette on more than 70 percent of the residential structures. Stone materials shall not be painted.

f) Lighting

i. Dusk to Dawn: Building frontages shall include dusk to dawn lighting for safety and security.

ii. Design and Placement: Lighting shall be recessed or hooded, downward directed, and located to illuminate only the intended area. Refer to Figure 10 above.

iii. Lighting Spill: Lighting shall not spill beyond the intended area and shall not extend across a property line.

g) Fencing

i. Fences and wall materials: Chain link or cyclone fences are prohibited.

h) Utilities and Service Areas

i. Screening: utilities and utility vaults, and all mechanical equipment shall be screened or hidden from view from the public street.

5.03.156. Accessory Dwelling Unit (ADU) Objective Design Standards (ODDS)

a) *Applicability.* An Accessory Dwelling Unit (ADU) shall comply with the following objective design standards. *Architectural Elements.* To create a sense of place within buildings that are cohesive, well-crafted, and enhance the public's experience, buildings shall be designed to meet the following objective criteria.

(1) Windows and doors: Windows and doors shall either be trimmed or recessed. When trimmed, the trim material shall not be less than 3.5" in width by ¾" in depth from the wall. When recessed, the building primary siding material shall cover the recessed edge faces and wrap toward the interior face of the window glazing or door face by not less than 3" in depth. Refer to Figure 9 above.

b) *Colors and Materials.* To ensure that buildings include a variety of color palettes and textures with durable and attractive materials that contribute to the aesthetic quality of the development and the neighborhood, buildings shall be designed to meet the following objective criteria:

(1) Required number of materials: Structures shall incorporate a minimum of two (2) building materials on each building elevation. Trim does not count as the second material.

(2) Colors: structures shall have a color palette that consists of at least two (2) body colors and two (2) accent colors (not including roof color). Projects with two (2) or more residential structures shall include a minimum of two (2) color palettes and shall not use a single palette on more than 70 percent of the residential structures. Stone materials shall not be painted.

c) *Lighting.* Lighting shall be designed in the following manner:

(1) Dusk to Dawn: Building frontages shall include dusk to dawn lighting for safety and security.

(2) Design and Placement: Lighting shall be recessed or hooded, downward directed, and located to illuminate only the intended area. Refer to Figure 10 above.

(3) Lighting Spill: Lighting shall not spill beyond the intended area and shall not extend across a property line.

d) Fencing.

(1) Fences and wall materials: Chain link or cyclone fences are prohibited.

e) Utilities and Service Areas.

(1) Screening: utilities and utility vaults, and all mechanical equipment shall be screened or hidden from view from the public street.

X. "P" – Public Zone

5.03.160 Regulations Established.

The regulations herein are applicable to properties zoned Public and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.161 Purpose.

The purpose of the Public zoning district is to provide for uses which are primarily public-serving in nature, including Town and other government offices, publicly owned recreation facilities, and fire and police facilities.

5.03.162 Permitted Uses.

(a) The following uses are permitted in the "P" Zone:

- (1) Public buildings and parks, and any uses incident thereto; and
- (2) Municipal supported senior housing.

(b) Wireless Communications Facilities, as regulated in Subchapter 5.17, may be permitted in the "P" Zone upon issuance of a use permit in accordance with the procedures herein set forth.

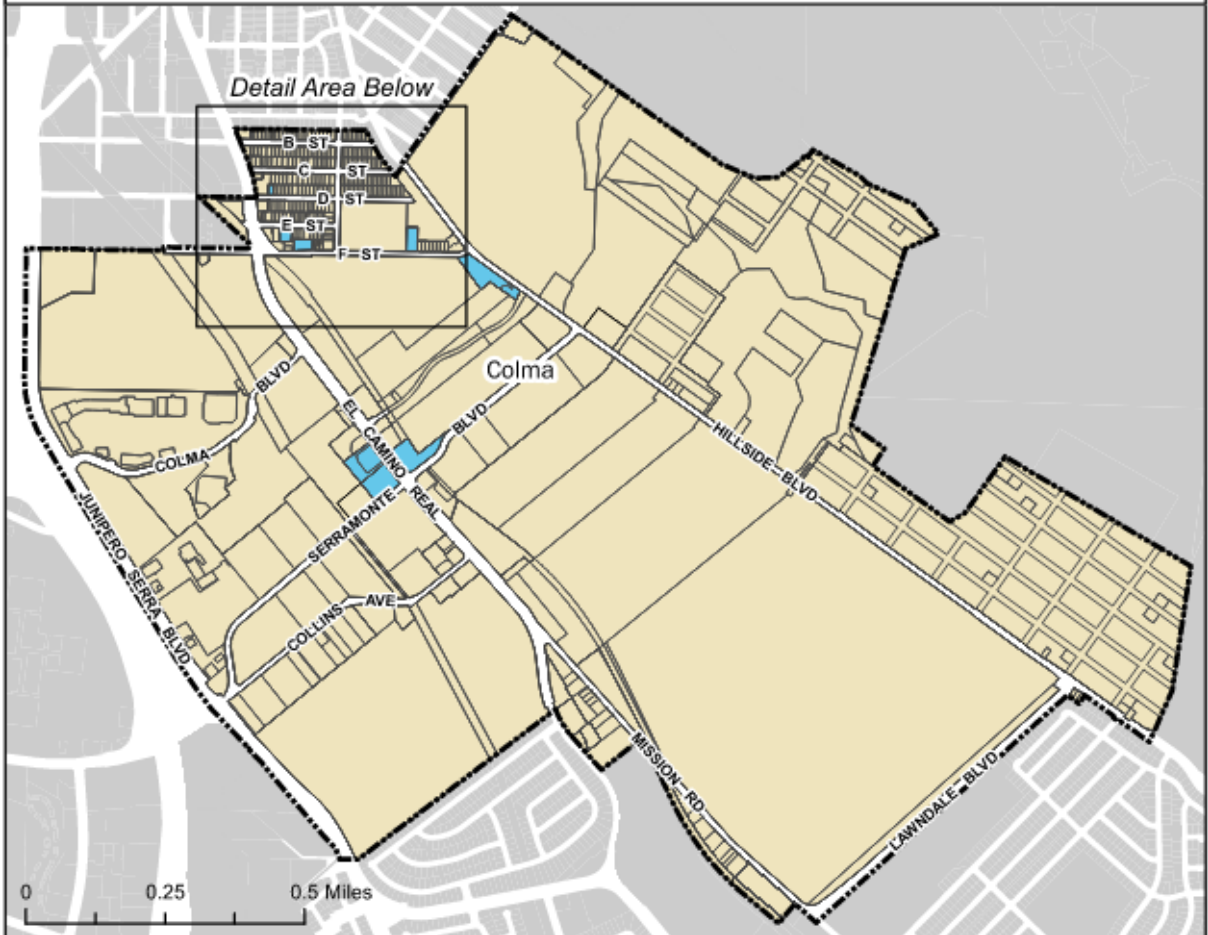
[History: formerly § 5.316; ORD. 234, 3/14/79; ORD. 459, 10/13/93; ORD. 638, 12/14/05; ORD. 728, 10/9/13]



5.03.163 "P" – Public Zone Development Standards

There shall be no restrictions on buildings or use within the "P" Zone, except that it is the policy of the Town that any use in the "P" Zone shall be consistent with the other uses in the Town.


[History: formerly § 5.334; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

Town of Colma Public Zone Map



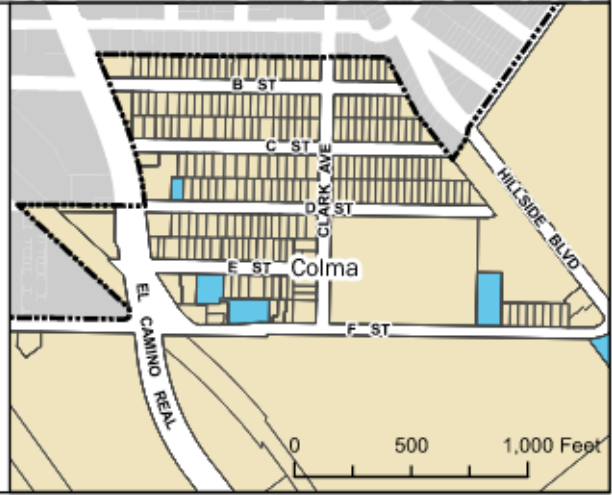
-  Town Limits
-  Parcel Boundary

Public Zone

-  'P' - Public



Comprehensive zoning information is shown on separate maps included in this document.



Prepared by CSG Consultants, Inc., January 2024.

XI. "E" – Executive, Administrative Zone

5.03.170 Regulations Established.

The regulations herein are applicable to properties zoned Executive, Administrative and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.171 Permitted Uses.

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

- (1) A cemetery or memorial park;
- (2) Floriculture or agriculture.

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

- (1) Nurseries;
- (2) Flower Shops;
- (3) Monument Shops;
- (4) Medical Service Offices where medical, dental or veterinarian consultation, treatment and/or advice is dispensed on an outpatient basis;
- (5) Professional Business Offices where professional or technical business services are offered and/or where the administrative management function of a business is performed and where no external signing is required;
- (6) Restaurants; provided that banquet facilities are included capable of accommodating 50 or more persons separated from the principal dining facilities.
- (7) Such other uses as the Council finds are of a similar nature to the specified uses.

(c) Wireless Communications Facilities, as regulated in Subchapter 5.17, except those permitted pursuant to Section 5.17.010 or Section 5.17.120, are specifically prohibited in the "E" Zone.

(d) Underground and screen utilities in new developments, at a minimum from the nearest Underground above-ground pole to the building. Transformer shall be located as far away from a public street as possible and shall be screened from view by landscaping to the extent feasible.

[*History*: formerly § 5.317; ORD. 234, 3/14/79; ORD. 321, 7/10/85; ORD. 372, 7/13/88; ORD. 638, 12/14/05; ORD. 728, 10/9/13]

5.03.172 "E" – Executive, Administrative Zone Development Standards.

The following regulations shall apply with respect to each lot zoned Executive, Administrative:

- (1) Area: Each lot shall have a minimum average width of 33-1/3 feet and a depth not less than 100 feet.
- (2) Setbacks: The front yard shall have a depth of not less than five (5) feet from property line to the front line of any building except that any yard facing El Camino Real shall be thirty (30) feet; the side yards shall not be less than five (5) feet wide; the rear yard shall not be less than five (5) feet deep.
- (3) Site Coverage: Not more than fifty percent (50%) of any building site shall be covered by buildings.
- (4) Parking: There shall be maintained on each building site facilities for parking, loading, and unloading; provided, however, that off-street parking shall in no event be less than the following standards:
 - (i) Retail Stores: one (1) parking space for each one hundred (100) square feet of sales floor area, but in no case less than one (1) space for each two hundred (200) square feet of gross floor area.
 - (ii) Professional Business and Medical Service Offices: one (1) parking space for each three hundred (300) square feet of gross floor area.
 - (iii) Restaurants: One (1) parking space for each four (4) seats for seating other than private banquet facilities; and with respect to private banquet facilities such additional parking as may be appropriate considering the size of the facility, the reasonably anticipated utilization of the banquet facility, and the availability of adjacent parking; provided, however, that the amount of parking required for banquet facilities shall be no greater than one (1) parking space for each four (4) seats.
 - (iv) All other uses: minimum of one (1) space for each five (5) regular employees but, in any case, not less than one (1) space for each two thousand (2,000) square feet of gross floor area, or fraction thereof.
- (5) Height: The maximum height of any building shall be thirty-six (36) feet.
- (6) Design: The design of any building shall be subject to approval by the City Council who shall consider the height, design and use of such building in relation to the height, design and use of buildings in the surrounding area.
- (7) Landscaping: Within the required setback area from El Camino Real there shall be maintained only paved walks, paved driveways, lawns and landscaping. The landscaping shall be consistent with landscaping in the surrounding area, and shall screen parking areas from passerby on the adjacent street. The City Council may require, as a condition of any Use Permit, that all or a portion of the setback area be maintained as lawns or landscaping.

- (8) Parking shall be placed behind buildings or well screened by landscaping.
- (9) Any roll-up doors and loading areas shall be located so as not to face public roads.
- (10) Electric Vehicle Charging Stations: Install electric vehicle charging stations.
- (11) Underground and screen utilities in new developments, at a minimum from the nearest Underground above-ground pole to the building. Transformer shall be located as far away from a public street as possible and shall be screened from view by landscaping to the extent feasible.
- (12) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-sensitive land uses.
- (13) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.
- (14) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.
- (15) Recreation Requirements for New Developments. All new development shall require dedication of improved land, or payment of a fee in-lieu of, for park and recreation land for all residential uses.
- (16) Green Infrastructure. Incorporate green infrastructure, which relies on natural processes for stormwater treatment/drainage, groundwater recharge and flood control, into street and rights-of-way wherever applicable, including curb cuts, flow-through planters and bioswales that slow stormwater runoff by dispersing it to vegetated areas, harvesting and use of runoff, and promote infiltration and use of bioretention to clean stormwater runoff.
- (17) Storm Water Runoff. Require large-scale projects (over 0.5 acres) to channel surface and roof runoff to on-site detention facilities to facilitate groundwater recharge, reduce stormwater pollution, and mitigate flooding of Colma Creek.
- (18) Sensitive Biological Habitats. Require new development on or near sensitive habitats, such as open creeks, ponds, and other water features, to be subject to an investigation and study of the presence of the threatened Red-legged frog and endangered San Francisco Garter Snake.
- (19) Habitat Enhancement. Require new development to minimize the disturbance of natural habitats and vegetation, and revegetation of disturbed habitat with native and/or non-invasive, naturalized species.

(20) Nesting Bird Protection. Require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove or be in close proximity to any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.

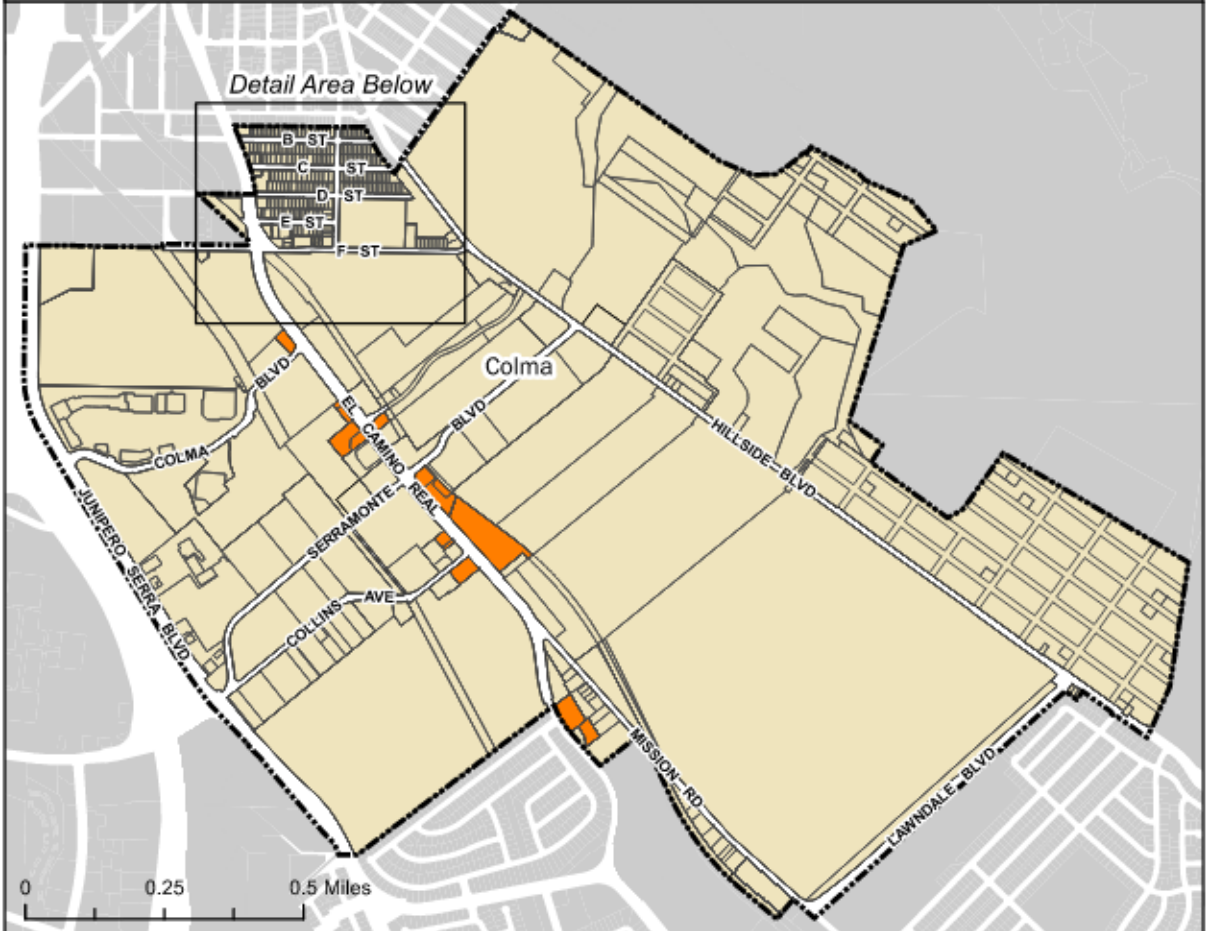
(21) Water Conservation. Promote the conservation and efficient use of water in new and existing residences and commercial buildings and sites.

(22) Water Efficient Landscape. Review landscape and hardscape installations as part of new development to ensure compliance with water conservation requirements in the Water Efficient Landscape Ordinance.

[*History:* formerly § 5.335.1; ORD. 321, 7/10/85; ORD. 372, 7/13/88; ORD. 638, 12/14/05]

Town of Colma

Executive, Administrative Zone Map



- Town Limits
- Parcel Boundary



Executive, Administrative Zone

- 'E' - Executive, Administrative



Comprehensive zoning information is shown on separate maps included in this document.



Prepared by CSG Consultants, Inc., January 2024.

XII. "PD" – Planned Development Zone

5.03.180 Regulations Established.

(a) The regulations herein are applicable to properties zoned Planned Development and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to all Zones.

5.03.181 Purpose.

It is the purpose of this section to establish a "PD"- Planned Development Zone to allow flexibility of design which is in accordance with the objectives and spirit of the General Plan.

5.03.182 Permitted Uses.

(a) The following uses are permitted within the "PD" Zone upon issuance of a use permit in accordance with the procedures hereinafter set forth:

- (1) Single family residential developments;
- (2) Low-barrier barrier navigation center;
- (3) Group homes for six (6) or fewer, and seven (7) or more residents;
- (4) Multiple housing developments;
- (5) Neighborhood and community commercial centers;
- (6) Professional and administrative offices;
- (7) A Single Room Occupancy (SRO);

Supportive housing where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses per Government Code 65651 if proposed supportive development meets all the requirements of Government Code 65651; and

- (8) A combination of such uses.

(b) Wireless Communications Facilities, as regulated in Subchapter 5.17, except those permitted pursuant to Section 5.17.010 or Section 5.17.120, are specifically prohibited in the "PD" Zone.

[*History:* formerly § 5.319; ORD. 234, 3/14/79; ORD. 264, 9/17/81; ORD. 638, 12/14/05; ORD. 728, 10/9/13]

5.03.183 Establishment of PD – Planned Development Districts.

PD- Planned Development Districts may be established in any R, E, or C Zone upon application of

a property owner or owners, or upon the initiative of the City Council. Please refer to the Map - Potential PD Sites below which designates where potential PD sites can be established.

[History: formerly § 5.320, ORD. 264, 9/17/81; ORD. 638, 12/14/05; ORD. 721, 5/8/13; ORD. 723, 6/12/13]

5.03.184 Conceptual Development Plan Required.

(a) An application for the establishment of a PD District shall be accompanied by a Conceptual Development Plan which, if approved by the City Council, shall become a part of the Zoning Map of the Town of Colma.

(b) Said Conceptual Development Plan shall show the following information, presented in a schematic form and at a scale satisfactory to the City Planner, with a reduced reproducible print of the proposed drawing suitable for publication purposes:

- (1) Proposed land uses;
- (2) Location of buildings, structures and building groups;
- (3) A tabulation of proposed dwelling unit density in residential areas;
- (4) A tabulation of floor area ratios and the maximum heights of proposed buildings;
- (5) Proposed circulation systems, including preliminary street cross sections;
- (6) Proposed parks, playgrounds, school sites and other open spaces;
- (7) Location and type of existing and proposed landscaping;
- (8) An economic feasibility analysis of proposed commercial uses;
- (9) Delineation of the major units within the development to be constructed in progression;
- (10) Relation to future land use in surrounding area as proposed in the General Plan;
- (11) Proposed off-street parking;
- (12) Proposed storm drainage facilities.

(c) The City Council may require such other information which, combined with the information submitted, shall be for the purpose of ascertaining substantial conformity with the adopted General Plan. The City Council shall make the following findings prior to approval of the Conceptual Development Plan:

- (1) That the proposed uses are, in substantial part, generally or conditionally permitted under the zoning classification for the proposed district in existence at the time of the application;

(2) That the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;

(3) That the streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and the density will not generate traffic in such amounts as to overload the street network outside the PD District.

(4) That any proposed development can be economically justified at the locations proposed;

(5) That the impact created by the development can be absorbed and serviced by the Town (police and fire service, water supply, sewage disposal, etc.).

(d) The City Planner may require the submittal of a topographic model of the proposed district to an accurate scale. Both horizontal and vertical scales shall be the same. The scale and detail of the model shall be sufficient to accurately illustrate the appearance of the total final development. The City Planner shall approve the scale of the model in writing prior to its construction. The following proposed items shall be included on the model:

(1) Final topography of the district after grading;

(2) Street system;

(3) Location and bulk of buildings and structures;

(4) Lot design;

(5) Parks, playgrounds, school sites and other open spaces;

(6) Parking and loading areas;

(7) Location of existing and proposed major landscaping.

(e) An application for establishment of a PD District shall be accompanied by a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution, for each proposed dwelling unit and each proposed commercial establishment shown in the Conceptual Development Plan. Said fee shall be in lieu of the fees prescribed in this Code for an amendment to the zoning map, for a variance, and for a use permit.

5.03.185 Conditional Uses.

A Use Permit shall be required for any and all uses in a PD District. A Detailed Development Plan, as described in section 5.03.186, shall be submitted as part of the application for a Use Permit. The City Council shall not grant a Use Permit for any use or uses in a PD District unless it finds that:

(a) Each of the standards set forth in section 5.03.410 have been met;

(b) The use or uses as shown on the Detailed Development Plan are the same as the use or uses shown on the approved Conceptual Development Plan.

[History: formerly § 5.322; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

5.03.186 Detailed Development Plan Required.

(a) An application for a Use Permit in a PD District shall include and be accompanied by a Detailed Development Plan which, if approved by the City Council, shall become a part of the Use Permit. The Detailed Development Plan shall contain certifications that a Design Professional or group of Design Professionals have participated in its preparation. Design Professional means a civil engineer, landscape architect, architect, registered building designer, or city planner who is a member of the American Institute of Certified Planners. Compliance with the requirements of this section shall not be construed as relieving the applicant from compliance with the Subdivision Ordinance or other applicable ordinances of the Town of Colma.

(b) The Detailed Development Plan shall include:

(1) A map showing any street system and lot design proposed within the District, and any areas proposed to be dedicated or reserved for parks, parkways, playgrounds, school sites, public buildings, and other such uses;

(2) A map showing the existing topography and the proposed finished grading of the District at one-foot contour intervals on areas of a cross slope of less than 5 per cent; at two-foot contour intervals on areas of a 5 to 10 per cent cross slope; at five-foot contour intervals on areas exceed 10 per cent cross slope. (For the purpose of this section, the cross slope of an area is defined to be the ratio expressed as a percentage of the vertical difference in elevation to the horizontal distance between any two points, with the line connecting the two points being essentially perpendicular to the contours between the two points. The City Council shall have the authority to determine the cross slope of an area and shall also have the authority to designate different portions of the District as having different cross slopes.);

(3) A plot plan for each building site or sites in the proposed PD District, the location of all proposed buildings, with a statement of the maximum and minimum distances between buildings and the property or building site lines;

(4) A detailed tabulation of the resultant densities of persons, dwelling units, floor area ratios and height or structures;

(5) Off-street parking and loading plan;

(6) A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the PD District, and to and from adjacent public thoroughfares, and any special engineering features and traffic regulation devices needed to facilitate or insure the safety of the circulation pattern;

(7) Landscaping and tree planting plan showing the approximate location and type of plant materials to be installed;

- (8) Detailed engineering site plans, including proposed finished grades and all public improvements;
- (9) Detailed engineering plans for the provisions of public utilities for the site, including provisions for off-site connections and facilities necessary to serve the site;
- (10) Elevations and perspective drawings of all proposed structures. (Such drawings need not be the result of the final architectural decisions and need not be in detail. The purpose of such drawings is to indicate within stated limits the height of the proposed buildings and the general appearance of the proposed structures, to the end that the entire development will have architectural unity and be in harmony with surrounding developments);
- (11) A written statement describing the disposition of recreation and open space areas, including proposals for ownership, development and maintenance of such spaces;
- (12) Detailed engineering plans for the provisions of storm drainage facilities.

[*History*: formerly § 5.323; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

5.03.187 PD – Planned Development Design Standards.

The following design standards shall be established as shown on the Detailed Development Plan for the particular PD District as approved by the City Council. Said design standards shall become a part of the Use Permit:

- (a) Minimum building site;
- (b) Minimum lot dimensions;
- (c) Maximum building site coverage by buildings and structures;
- (d) Minimum yards;
- (e) Maximum building or structure heights;
- (f) Maximum height of fences and walls;
- (g) Signs;
- (h) Off-street parking;

Pursuant to AB 2097, Government Code Section 65863.2, there is no minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of high quality public transit. However, a development of 19 dwelling units or fewer may impose parking requirements per Table 4 – Parking Standards, Section 5.03.232.

- (i) Electrical vehicle charging stations; and
- (j) Private open space in multifamily residential development shall include a minimum of 100 square feet of private open space for each dwelling unit for use by residents of the project, such as courtyards, private balconies, and rooftop patios.
- (k) Underground and screen utilities in new developments, at a minimum from the nearest Underground above-ground pole to the building. Transformer shall be located as far away from a public street as possible and shall be screened from view by landscaping to the extent feasible.
- (l) Noise Impacts. Consider noise impacts as part of the development review process, particularly for the location of parking, ingress/egress/loading and trash collection areas relative to surrounding residential development and other noise-sensitive land uses.
- (m) Noise Controls. Require an acoustical study to identify inappropriate noise levels where new development may directly result in existing or future noise-sensitive uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed.
- (n) BART Noise. Allow outdoor noise exposure criteria of 70Ldn for future development in proximity to BART, recognizing that BART noise is characterized by relatively few loud events.
- (o) Recreation Requirements for New Developments. All new development shall require dedication of improved land, or payment of a fee in-lieu of, for park and recreation land for all residential uses.
- (p) Green Infrastructure. Incorporate green infrastructure, which relies on natural processes for stormwater treatment/drainage, groundwater recharge and flood control, into street and rights-of-way wherever applicable, including curb cuts, flow-through planters and bioswales that slow stormwater runoff by dispersing it to vegetated areas, harvesting and use of runoff, and promote infiltration and use of bioretention to clean stormwater runoff.
- (q) Storm Water Runoff. Require large-scale projects (over 0.5 acres) to channel surface and roof runoff to on-site detention facilities to facilitate groundwater recharge, reduce stormwater pollution, and mitigate flooding of Colma Creek.
- (r) Sensitive Biological Habitats. Require new development on or near sensitive habitats, such as open creeks, ponds, and other water features, to be subject to an investigation and study of the presence of the threatened Red-legged frog and endangered San Francisco Garter Snake.
- (s) Habitat Enhancement. Require new development to minimize the disturbance of natural habitats and vegetation, and revegetation of disturbed habitat with native and/or non-invasive, naturalized species.
- (t) Nesting Bird Protection. Require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove or be in close proximity to any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate

avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.

(u) Water Conservation. Promote the conservation and efficient use of water in new and existing residences and commercial buildings and sites.

(v) Water Efficient Landscape. Review landscape and hardscape installations as part of new development to ensure compliance with water conservation requirements in the Water Efficient Landscape Ordinance.

[*History:* formerly § 5.324; ORD. 264, 09/17/81; ORD. 638, 12/14/05]

5.03.188 Open Space and Density.

(a) Open space and density shall be as shown on the Detailed Development Plan for the particular PD District as approved by the City Council.

[*History:* formerly § 5.325; ORD. 264, 9/17/81; ORD. 638, 12/14/05]

5.03.189 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 5.03.281 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 5.03.241 of this Code.

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

5.03.190 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]

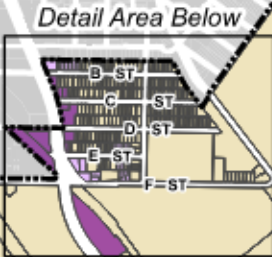
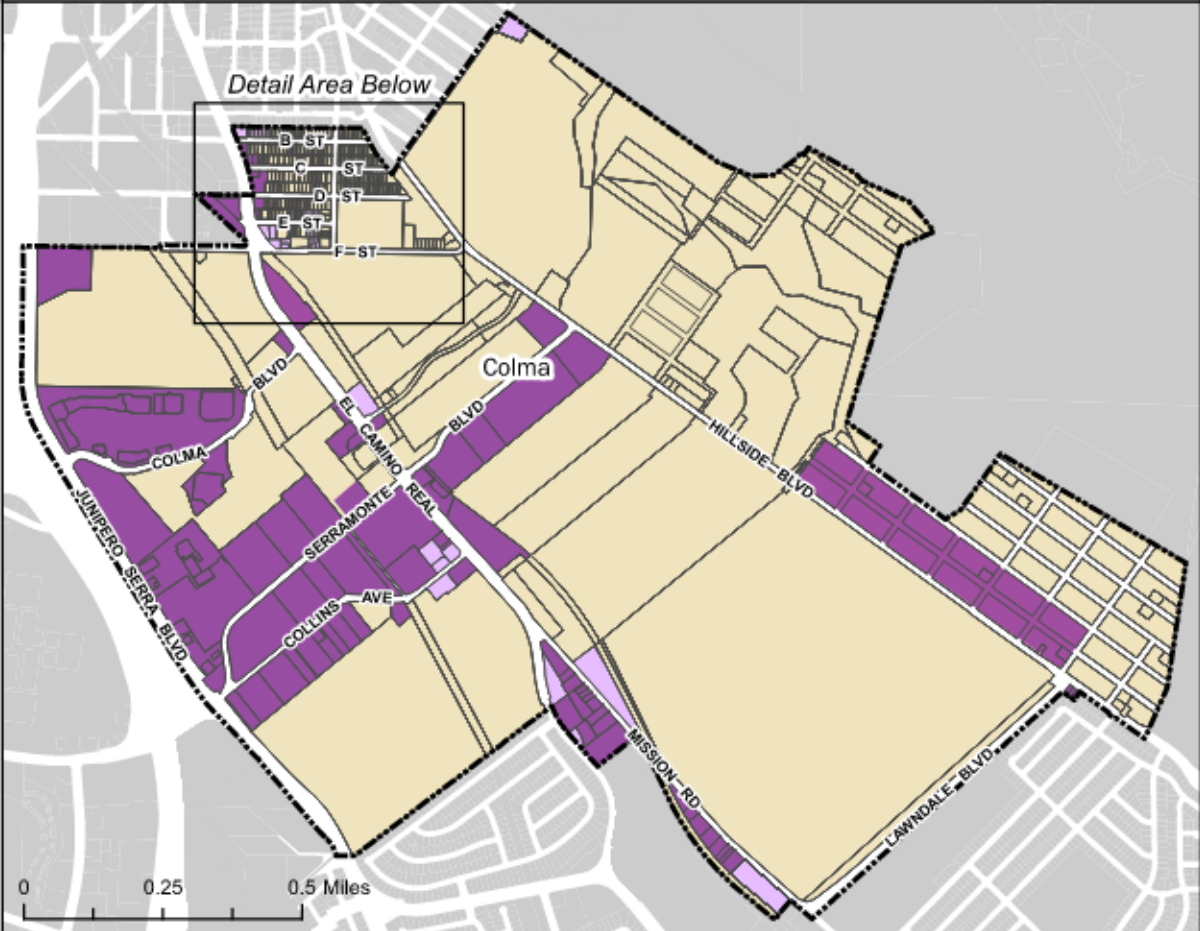
5.03.191 Revocation of Use Permit.

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 5.03.246 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 5.03.243 of this ordinance.

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

Town of Colma Planned Development District Map



- Town Limits
- Parcel Boundary



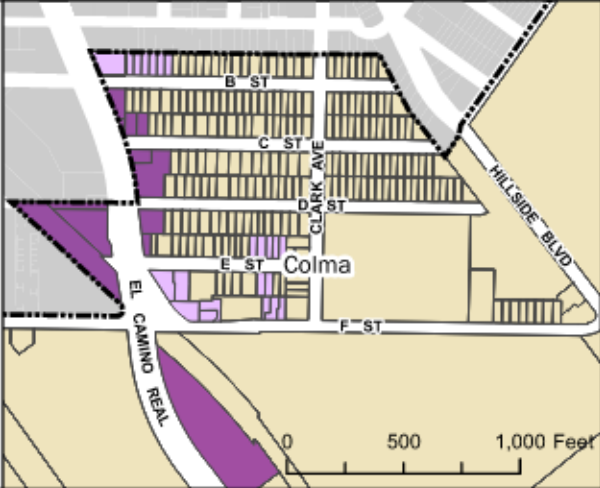
Planned Development District

May be established in any 'R' - Residential, 'E' - Executive Administrative, or 'C' - Commercial Zone.

- Adopted 'PD' - Planned Development
- Potential 'PD' - Planned Development



Comprehensive zoning information is shown on separate maps included in this document.



Prepared by CSG Consultants, Inc., January 2024.

XIII. Housing Element Overlay (HEO) Zone District

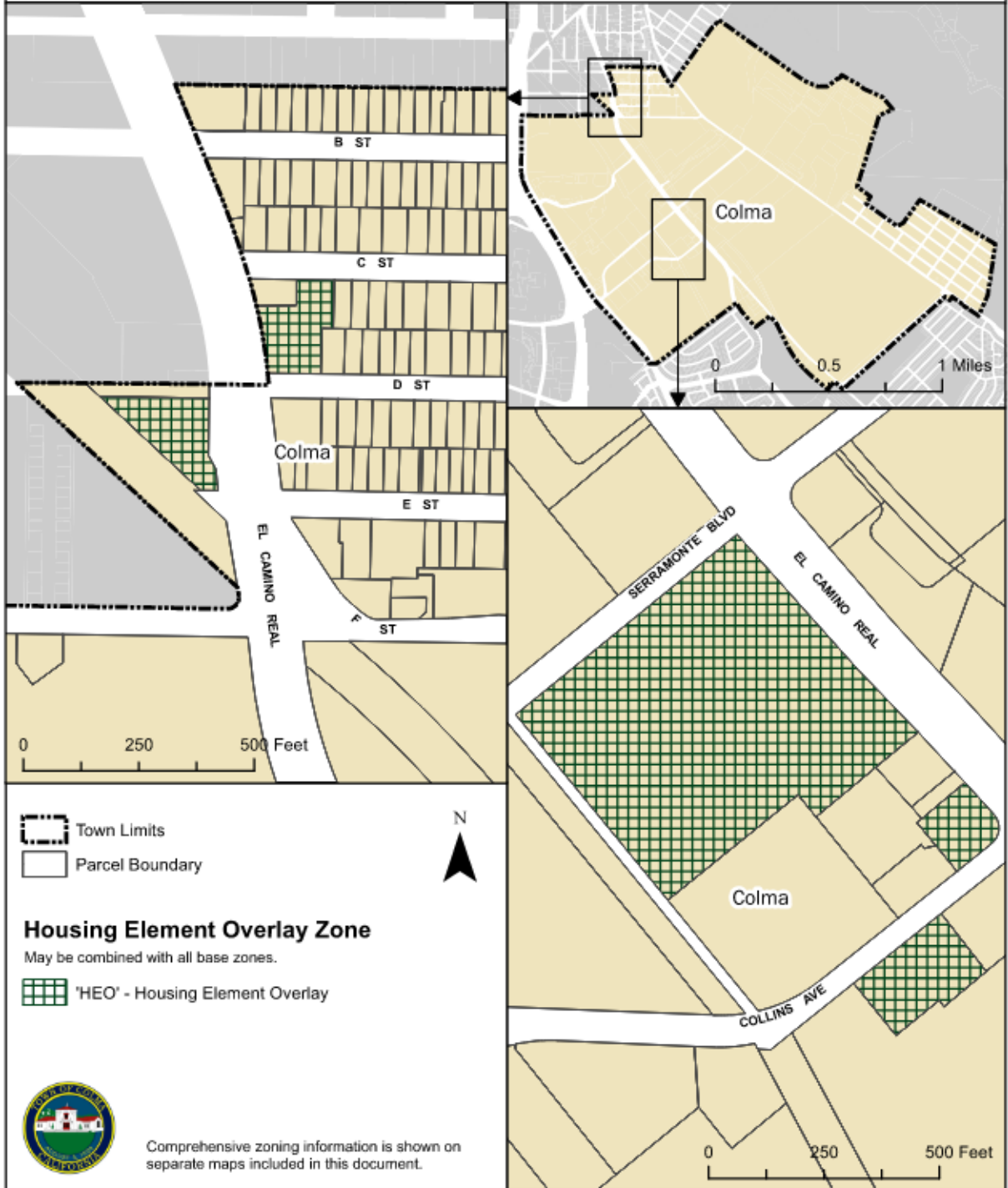
5.03.195 Purpose.

The Town of Colma's creation of a Housing Element Overlay Zoning District (HEO) is in response to the State of California's required Regional Housing Needs Allocation mandating additional 202 units of mixed-income levels housing during the 2023 – 2031 period by removing constraints to developing housing on the five opportunity sites in town. The HEO was included in the adopted Housing Element Update in January 2023 – Figure H-7. The HEO designation will allow for greater housing densities and support mixed-use developments on the opportunity sites. Allowable uses and development standards in the HEO will reflect the state's legislative decisions that aim to remove barriers to housing development. A few of the most impactful standards include removing minimum parking requirements within a half mile of public transit and density bonus amendments that will allow for projects consistent with the densities described in the Town's Land Use Element of the General Plan 2040. Additionally, as of July 1, 2023, the HEO will provide a ministerial pathway for California Environmental Quality Act (CEQA) exemption approval related to multi-family projects that pay prevailing wages and meet specified affordable housing targets.

5.03.196 No Parking Standards Required for Housing Element Overlay Zone District.

Government Code Section 65863.2 prohibits a public agency from imposing any minimum automobile parking requirement on any residential, commercial, or other development project, as defined, that is located within one-half (1/2) miles of public transit, as defined. No minimum parking standards shall be required in any areas of the Housing Element Update Overlay Zone District, except Hillside Boulevard and eastward.

Town of Colma Housing Element Overlay Zone Map



XIV. Housing Density Bonus

5.03.197 Purpose.

To demonstrate the standards and procedures in granting affordable housing density bonuses, concessions, and incentives for housing developments, in an effort to incentivize the construction of affordable units within new developments in the Town. This section implements the requirements of Government Code Sections 65915 through 65918, as may be amended from time to time ("State Density Bonus Law").

The State Density Bonus Law was enacted in 1979 to encourage the development of affordable housing. The law incentivizes developers to provide below market rate housing by allowing projects that meet certain quotas of affordable units to exceed normal density limits. Over time, the law has further promoted affordable housing by offering developers benefits such as cost reductions, waivers of development standards, and reductions in parking requirements. The most recent changes in the State's Density Bonus Law became effective on January 1, 2023.

This section shall apply to all zoning districts that permit housing at a prescribed density by the General Plan land use designation and/or zoning district. Where the density allowed under the zoning district is inconsistent with the density allowed under the General Plan land use designation, the land use designation density shall prevail. This section works in conjunction with, and does not replace or prevail over the Town's Inclusionary and Affordable Housing Ordinance, Town of Colma Municipal Code Chapter 5.03.199. If conflicts occur between requirements of this section and Government Code Sections 65915 through 65918, the requirements of Government Code Sections 65915 through 65918 shall apply.

5.03.198 Density Bonus and Affordable Housing Incentives.

The density bonuses and other affordable housing incentives required by state law, including, but not limited to, Government Code Section 65915 et seq., shall be available to applicants on the terms and conditions specified in state law.

XV. Inclusionary and Affordable Housing

5.03.199 In-Lieu Fees and Impact Fees.

(a) Applicability

(1) *In-Lieu Fees:* All new residential development projects that are required to provide inclusionary units per this Subchapter, may satisfy these requirements by paying an in-lieu fee to the Affordable Housing Trust Fund as provided in this section. In-lieu Fees shall be in an amount as set forth in the current Town's Master Fee Schedule as adopted by the City Council, and as indicated in the table below.

(b) *Impact Fees:* Affordable Housing Impact Fees shall be imposed on non-residential uses as follows:

Table 5: Affordable Housing Impact Fees

Use	Fee Per Square Foot of Net New Floor Area
<i>Non-Residential Use (Only applies to developments over 5,000 sf)</i>	
Hotel	\$5.00
Retail, Restaurants and Services	\$5.00
Office, Medical Office and Research and Development Uses	\$5.00

(c) *Timing of Payment.* The In-lieu Fee or Impact Fee must be paid prior to the Town’s issuance of a building permit for the development. For phased developments, payments may be made for each portion of the Development prior to Building Permit issuance for that phase.

(d) *Effect of No Payment.* No building permit will be issued unless fees required under this Section have been paid in full to the Town.

[History: ORD. 639, 1/11/06; ORD. 764, 9/28/16; ORD. 785, 11/28/18; ORD. __, XX/XX/XX]

5.03.200 Housing Fund.

(a) *Establishment.* The Town of Colma Affordable Housing Fund (the “Housing Fund”) shall be and is hereby established. Separate accounts within such Housing Fund may be created from time to time to avoid commingling as required by law or as deemed appropriate to further the purposes of the Fund.

(b) *Administration.* The Housing Fund shall be administered by the City Manager, who shall have the authority to govern the Housing Fund consistent with this Subchapter, and to make recommendations on the use of the Fund, subject to review and approval by the Council.

[History: Ord. 639, 1/11/06; Ord. 764, 9/28/16; Ord. 785, 11/28/18]

5.03.201 Purposes and Use of Housing Fund.

(a) Monies deposited in the Housing Fund along with any interest earnings on such monies shall be used solely to increase and improve the supply of housing affordable households of moderate-, low- and very low-income households in the Town and in northern San Mateo County including, but not limited to:

- (1) Acquisition of property and property rights;
- (2) Cost of construction including costs associated with planning, administration, and design, as well as actual building or installation, as well as any other costs associated with the construction or financing of affordable housing;

(3) Reimbursement to the Town for such costs if funds were advanced by the Town from other sources; and

(4) Reimbursement of developers or property owners who have been required or permitted to install facilities which are beyond that which can be attributed to a specific development.

(b) Monies may also be used to cover reasonable administrative expenses not reimbursed through processing fees, including reasonable consultant and legal expenses related to the establishment and/or administration of the Housing Fund and reasonable expenses for administering the process of calculating, collecting, and accounting for in-lieu fees and any deferred Town fees authorized by this section.

(c) Monies in the Housing Fund shall be used to construct, acquire, rehabilitate or subsidize very low-, low- and moderate- income housing and/or to assist other governmental entities, private organizations or individuals in the construction and rehabilitation of very low-, low-, and moderate-income housing. To the extent possible as determined by the Council, monies shall be targeted to benefit households at or below 80% of Median Income in San Mateo County. Monies in the Housing Fund may be disbursed, hypothecated, collateralized or otherwise employed for these purposes from time to time as the City Council determines is appropriate to accomplish the purposes of the Housing Fund. These uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases, other public/private partnership arrangements, or lent to the San Mateo County Housing Endowment and Regional Trust (HEART) for a specified term. The Housing Fund monies may be extended for the benefit of rental or owner-occupied housing or housing services.

(d) Expenditures by the City Manager from the Housing Fund shall be by contract and controlled, authorized and paid in accordance with general Town budgetary policies.

[History: Ord. 639, 1/11/06; Ord. 764, 9/28/16; Ord. 785, 11/28/18]

5.03.202 Affordability Requirement for Residential Development.

(a) *Inclusionary Units Requirement.* For all Residential Developments, including mixed use development, of five or more residential units, a maximum of fifteen percent of the total units must be Inclusionary Units restricted for occupancy by Moderate-, Low- or Very Low-Income Households. The developer may elect, as an option, to satisfy the requirements of this section by paying the in-lieu fee described in section 5.03.198 or performing an Alternative Equivalent Action pursuant to section 5.03.204 of this ordinance.

(b) *Time of Determination.* The number of Inclusionary Units required for a particular project will be determined only once, at the time of tentative or parcel map approval, or, for developments not processing a map, prior to issuance of a Conditional Use Permit. If a Conditional Use Permit is not required, the number of units required shall be determined at the time of building permit application. If a change in the subdivision design results in a change in the total number of units, the number of Inclusionary Units required will be recalculated to coincide with the final approved project.

(c) *Calculation.* For purposes of calculating the number of inclusionary units required by this Section, any additional units authorized as a density bonus under California Government Code Section 65915(b)(1) or (b)(2) will not be counted in determining the required number of Inclusionary Units. In determining the number of whole Inclusionary Units required, any decimal fraction shall be subject to In-Lieu Housing Fees as described in Section 5.03.198.

(d) *Type of Inclusionary Units.* A maximum of fifteen (15%) of the Inclusionary Units (or maximum percent of the total development) must be restricted to occupancy by Very Low-Income Households. An additional maximum of fifteen percent (15%) of the Inclusionary Units (or maximum 4 percent of the total development) must be restricted to occupancy by Low-Income Households. The remaining maximum of 70% (or maximum 12 percent of the total development) to Moderate Income Households.

(e) *Timing of Occupancy.* All Inclusionary Units must be constructed and occupied concurrently with or prior to the construction and occupancy of market-rate units or development. In phased developments, Inclusionary Units may be constructed and occupied in proportion to the number of units in each phase of the residential development.

[History: Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.203 Exemptions.

The requirements of section 5.03.201 do not apply to:

- (1) A residential development project to the extent it has received a vested right to proceed pursuant to state law prior to the effective date of this ordinance.
- (2) Building permits for residential development projects if compliance with this section for such project has already been satisfied including, but not limited to, building permits on newly created lots where the subdivider has built affordable units or otherwise satisfied this section.
- (3) Any dwelling unit or residential development project which is damaged or destroyed by fire or natural catastrophes so long as the use of the reconstructed building and number of dwelling units remains the same, and the square footage of the reconstructed building is not increased or reduced by more than 10%.
- (4) Residential Development consisting of four or fewer units.
- (5) Public Uses, including, but not limited to parks, playgrounds, and administrative and service facilities.
- (6) Child Care Centers, including Family Child Care Homes.
- (7) Recreational facilities for public use and enjoyment within commercial or industrial developments.
- (8) Cemetery developments of any type.
- (9) Housing for residential care facilities and skilled nursing facilities.

(10) Property eligible for the California Property Tax Welfare Exemption in that it is (1) used exclusively for charitable purposes, and (2) owned or held in trust by nonprofit organizations operating for those purposes and that have a current tax exempt letter from the Internal Revenue Service or the Franchise Tax Board.

[*History:* Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.204 Basic Requirements for Inclusionary Units.

(a) *Applicable Standards.* All Inclusionary Units built under this subchapter shall conform to the standards set forth in this section.

(b) *Exterior Design.* Inclusionary units shall be comparable in number of bedrooms, exterior appearance, infrastructure (including sewer, water and other utilities) and overall quality of construction to market rate units in the same residential project. With the approval of the City Manager, inclusionary units may be smaller in aggregate size and need not contain more than four bedrooms.

(c) *Interior Design.* Subject to the approval of the City Manager, interior finishes in inclusionary units shall be of similar or equivalent to those in market rate units in the same residential project, so long as they are durable, of good quality and are consistent with contemporary standards for new housing.

(e) *Disbursal.* Affordable units shall be dispersed throughout the residential project, or, subject to the approval of the City Manager, may be clustered within the residential project when this furthers affordable housing opportunities.

(f) *Agreement Required.* Prior to the issuance of certificates of occupancy or approval of the final inspection for affordable units, regulatory agreements, resale restrictions, deed restrictions, deeds of trust and/or other documents, all of which must be acceptable to the City Manager and consistent with the requirements of this Subchapter, shall be recorded against parcels having such affordable units and shall be effective for a minimum of 55 years for owner-occupied units. Agreements involving rental units shall require the owner of the affordable units to ensure that the units are occupied by tenants whose monthly income levels do not exceed those as indicated in the San Mateo County Income Limits table below or the current income levels as amended by the County of San Mateo, as the case may be, and shall preclude tenants from subletting or subleasing the unit. The agreement shall also require the owner of the affordable unit to submit an annual report to the City Manager, in a format approved by the Town. The report shall include, but not be limited to the following information: an identification of the affordable units within the project; the monthly rents charged and proposed to be charged; vacancy information for the prior year; and the monthly income for tenants of each affordable unit throughout the prior year.

Table: San Mateo County Income Limits (2021)

Income Category	Number of Persons Per Household (Maximum Income)				
	1	2	3	4	5
Extremely Low	\$ 38,400	\$ 43,850	\$ 49,350	\$ 54,800	\$ 59,200
Very Low	\$ 63,950	\$ 73,100	\$ 82,250	\$ 91,350	\$ 98,700
Lower Income	\$102,450	\$117,100	\$131,750	\$146,350	\$158,100
Median Income	\$104,700	\$119,700	\$134,650	\$149,600	\$161,550
Moderate Income	\$125,650	\$143,600	\$161,550	\$179,500	\$193,850

[History: Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.205 Alternative Equivalent Actions.

(a) A Residential development project, or mixed-use development project, subject to this Subchapter may propose to meet the requirements of section 5.03.201 by an alternative equivalent action, subject to the review and approval by the City Council. With regard to for-sale residential development projects or mixed-use development projects including residential for sale units, the developer may propose an alternative equivalent action by submitting at the time of application for a discretionary or building permit, whichever comes first, a description of the proposed alternative equivalent action along with a report identifying:

- (1) How the alternative will further affordable housing opportunities in the Town to an equal or greater extent than compliance with the express requirements of Section 5.03.201, and that an over concentration of affordable housing in one area will not occur;
- (2) All overriding conditions impacting the project that prevent developer from meeting the requirement to construct the affordable units;
- (3) Sufficient independent data, including appropriate financial information, that supports the developer’s claim that it is not feasible to construct the required affordable units; and,
- (4) A detailed analysis of why the concessions and incentives and the density bonuses specified in Government Code Section 65915 will not mitigate the identified overriding conditions that are preventing the construction of the affordable units.

(b) With regard to rental residential projects, or mixed use development projects including rental residential units, a developer may propose an alternative equivalent action by submitting at the time of application for a discretionary planning or building permit, whichever comes first, a description of the proposed alternative equivalent action. An alternative equivalent action may include, but is not limited to:

- (1) *Payment of In Lieu Fee.* Please see section 5.03.198.

(2) *Land Donation.* An applicant may donate land to the Town or to a non-profit housing developer in place of actual construction of required affordable units. The dedicated land must be appropriately zoned, buildable, free of toxic substances and contaminated soils. The fair market value of the donated land shall be equivalent to the value of the construction and land costs of the required affordable units. The land that is donated shall include lots that are fully improved with infrastructure, adjacent utilities, and grading, and fees paid. Land donated for the purpose of constructing units affordable to very-low income households may be eligible for a density bonus, as specified in Government Code Section 69515.

(3) *Off-site Construction.* Inclusionary Units may be constructed off-site if the Inclusionary Units will be located in an area where, based on the availability of affordable housing, the City Council finds that the need for such units is greater than the need in the area of the proposed development.

(4) *Combination.* The City Council may accept any combination of on-site construction, off-site construction, in-lieu fees and land dedication that at least equal the cost of providing Inclusionary Units on-site as would otherwise be required by this chapter.

[*History:* Ord. 639, 1/11/06; Ord 764, 9/28/16]

5.03.206 Compliance Procedures.

(a) *General.* Approval of an Inclusionary Housing Plan and implementation of an approved Inclusionary Housing Agreement is required for any For-Sale Residential development project that includes Inclusionary Units. It is also required for any For-Rent Residential development project that chooses to restrict certain units pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D). It is not required, however, for exempt projects or for projects where the requirements of this subchapter are completely satisfied by payment of a fee under section 5.03.198.

(b) *Time for Compliance.* An applicant for any Development required to comply with this Section, shall submit a preliminary plan to the Town detailing how the Development intends to comply with the requirements of this subchapter, at the time of submittal of application materials for a tentative map, parcel map, or any other discretionary permit or entitlement needed for the project. No application for a tentative map, parcel map or building permit to which this Chapter applies may be deemed complete until a preliminary plan is submitted to the Town. The Town shall impose, as a condition of approval, the requirement that the Development seek the approval of an Inclusionary Housing Plan and implementation of an approved Inclusionary Housing Agreement. The Inclusionary Housing Plan shall be required to be submitted, reviewed, and approved prior to final map approval and recordation, or prior to the first building permit issuance, whichever comes first.

(c) *Inclusionary Housing Plan.* The City Council must approve, conditionally approve or reject the Inclusionary Housing Plan within 60 days of the date of a complete application for that approval. If the Inclusionary Housing Plan is incomplete, the Inclusionary Housing Plan will be returned to the Developer along with a list of the deficiencies or the information required. At any

time during the review process, the Town may require from the Developer additional information reasonably necessary to clarify and supplement the application or determine the consistency of the proposed Inclusionary Housing Plan with the requirements of this Chapter. The Inclusionary Housing Plan must include:

- (1) The location, structure (attached, semi-attached, or detached), proposed tenure (for sale or rental), and size of the proposed market-rate, commercial space and/or Inclusionary Units and the basis for calculating the number of Inclusionary Units;
- (2) A floor or site plan depicting the location of the Inclusionary Units;
- (3) The income levels to which each Inclusionary Unit will be made affordable;
- (4) The mechanisms that will be used to assure that the units remain affordable for the desired term, such as resale and rental restrictions, deeds of trust, and rights of first refusal and other documents;
- (5) For phased Development, a phasing plan that provides for the timely development of the number of Inclusionary Units proportionate to each proposed phase of development.
- (6) A description of any incentives that are requested of the Town;
- (4) Any alternative equivalent actions proposed for the Development along with information necessary to support the findings required by this Subchapter for approval of such alternatives;
- (5) The sequence in which the different levels of Inclusionary Units shall be built and occupied, for example, the first Inclusionary Unit may only be occupied by a Very-Low Income Household, the second Inclusionary Unit by a Low-Income Household, etc.
- (6) Any other information reasonably requested by the Town to assist with evaluation of the Plan under the standards of this Chapter.

(d) *Inclusionary Housing Agreement.* The forms of the Inclusionary Housing Agreement, resale and rental restrictions, deeds of trust, rights of first refusal and other documents authorized by this subsection, and any change in the form of any such document which materially alters any policy in the document, must be approved by the City Manager or his or her designee prior to being executed with respect to any Residential Development or Affordable Housing Proposals. The form of the Inclusionary Housing Agreement will vary, depending on the manner in which the provisions of this Chapter are satisfied for a particular development. All Inclusionary Housing Agreements must include, at minimum, the following:

- (1) Description of the development, including whether the Inclusionary Units will be rented or owner-occupied;
- (2) The number, size and location of Very Low-, Low- or Moderate-Income Units;
- (3) Inclusionary incentives by the Town (if any), including the nature and amount of any local public funding;

(4) Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions;

(5) Provisions for monitoring the ongoing affordability of the units, and the process for qualifying prospective resident Households for income eligibility; and any additional obligations relevant to the compliance with this Chapter.

(e) *Recording of Agreement.* Inclusionary Housing Agreements that are acceptable to the City Manager must be recorded against owner-occupied Inclusionary Units and Residential development projects that choose to restrict certain units pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D). Additional rental or resale restrictions, deeds of trust, rights of first refusal and/or other documents acceptable to the City Manager must also be recorded against owner-occupied Inclusionary Units. In cases where the requirements of this Chapter are satisfied through the development of Off-Site Units, the Inclusionary Housing Agreement must simultaneously be recorded against the property where the Off-Site Units are to be developed.

(g) *Annual Monitoring and Transfer Fees.*

(1) For each rental unit restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D), the then current owner may be required to pay an annual monitoring fee for the term of required affordability. Such fee shall be specified in the regulatory agreement(s) required hereunder.

(2) For each owner-occupied inclusionary unit provided under this section, the then current owner may be required to pay a transfer fee for any change of ownership during the term of required affordability. Such fee shall be specified in the Inclusionary Housing Agreement required hereunder.

(h) *Requirements for Certificate of Occupancy/Final Inspection.*

(1) No temporary or permanent certificate of occupancy shall be issued or final inspection approval for any dwelling unit in a R- residential development project until the developer has satisfactorily completed the requirements hereunder, i.e., on-site construction of affordable units, alternative equivalent action(s), or payment of the housing in-lieu fee.

(2) No temporary or permanent certificate of occupancy shall be issued or final inspection approved for a dwelling unit described as exempt from the requirements of this Subchapter in section 5.03.201 above until the developer has made a showing acceptable to the City Manager that such an exemption is appropriate.

[History: Ord. 639, 1/11/06; Ord 738, 1/14/15; Ord 764, 9/28/16]

5.03.207 Eligibility for Inclusionary Units.

(a) *General Eligibility.* No Household may occupy an Inclusionary Unit, or rent a unit restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D), unless the City Manager has approved the Household's eligibility, or has failed to make a determination of

eligibility within the time or other limits provided by an Inclusionary Housing Agreement or resale restriction. If the Town or its designee maintains a list or identifies eligible Households, initial and subsequent occupants will be selected first from the list of identified Households, to the maximum extent possible, in accordance with any rules approved by the City Manager. If the Town has failed to identify a Household as an eligible buyer for the initial sale of an Inclusionary Unit that is intended for owner-occupancy 90 days after the unit receives a completed final inspection for occupancy, upon 90 additional days' notice to the Town and on satisfaction of such further conditions as may be included in Town-approved restrictions (which may include a further opportunity to identify an eligible buyer), the owner may sell the unit at a market price, and the unit will not be subject to any requirement of this Subchapter thereafter.

(b) *Conflict of Interest.* The following individuals are ineligible to purchase an Inclusionary Unit, or rent a unit restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D): (i) Town employees and officials (and their immediate family members) who have policy-making authority or influence regarding Town housing programs and do not qualify as having a remote interest as provided by California Government Code Section 1091; (ii) the Project Applicant and its officers and employees (and their immediate family members); and (iii) the Project Owner and its officers and employees (and their immediate family members).

(c) *Occupancy.* Any Household who purchases an Inclusionary Unit, or rents a unit restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D), must occupy that unit as a principal residence.

[*History:* Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.208 Owner-Occupied Units.

(a) *Initial Sales Price.* The initial sales price of the Inclusionary Unit must be set so that the eligible Household will pay an Affordable Sales Price.

(b) *Transfer.* Renewed restrictions will be entered into on each change of ownership, with a 45-year renewal term, upon transfer of an owner-occupied Inclusionary Unit prior to the expiration of the 45-year affordability period.

(c) *Resale.* The maximum sales price permitted on resale of an Inclusionary Unit designated for owner-occupancy shall be the lower of: (1) fair market value or (2) the seller's lawful purchase price, increased by the lesser of (i) the rate of increase of Area Median Income during the seller's ownership or (ii) the rate at which the consumer price index increased during the seller's ownership. To the extent authorized in any resale restrictions or operative Inclusionary Housing Agreement, sellers may recover at time of sale the market value of capital improvements made by the seller and the seller's necessary and usual costs of sale, and may authorize an increase in the maximum allowable sales price to achieve such recovery.

(d) *Changes in Title.* Title in the Inclusionary Unit may change due to changes in circumstance, including death, marriage and divorce. Except as otherwise provided by this Subsection, if a change in title is occasioned by events that changes the financial situation of the Household so that it is no longer income-eligible, then the property must be sold to an income-eligible Household within 180 days. Upon the death of one of the owners, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the Household. Upon the death

of a sole owner or all owners and inheritance of the Inclusionary Unit by a non-income-eligible child or stepchild of one or more owners, there will be a one year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible Household. Inheritance of an Inclusionary Unit by any other person whose Household is not income-eligible shall require resale of the unit to an income-eligible Household as soon as is feasible but not more than 180 days.

[History: Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.209 Rental Units.

(a) *Rental Requirement.* Rental units restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D) shall be offered to Households consistent with the applicable restriction provided for in subsection (A) through (D) in Government Code Section 65915(b)(1). The owner of such units shall certify each tenant Household's income to the Town or Town's designee at the time of initial rental and annually thereafter. The owner must obtain and review documents that demonstrate the prospective renter's total income, such as income tax returns or W-2s for the previous calendar year, and submit such information on a form approved by the Town.

(b) *Selection of Tenants.* The owners of rental units restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D) may fill vacant units by selecting income-eligible Households from the Section 8 Housing Choice Voucher Waiting List maintained by the Town or Town's designee. Alternatively, owners may fill vacant units through their own selection process, provided that they publish notices of the availability of the rental units according to guidelines established by the City Manager.

(c) *Annual Report.* The owner shall submit an annual report summarizing the occupancy of each rental unit for the year, demonstrating the continuing income-eligibility of the tenant. The City Manager may require additional information if he or she deems it necessary.

(d) *Subsequent Rental to Income-Eligible Tenant.* The owner shall apply the same rental terms and conditions to tenants of rental units restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D) as are applied to all other tenants, except as required to comply with this Subchapter (for example, rent levels, occupancy restrictions and income requirements) or with other applicable government subsidy programs. Discrimination against persons receiving housing assistance is prohibited.

(e) *Changes in Tenant Income.* If, after moving into an Inclusionary Unit, a tenant's Household income exceeds the limit for that unit, the tenant Household may remain in the unit as long as his or her Household income does not exceed 140 percent of the income limit. Once the tenant's income exceeds 140 percent of the income limit, the following shall apply:

(1) If the tenant's income does not exceed the income limits of other Inclusionary Units in the Residential Development, the owner may, at the owner's option, allow the tenant to remain in the original unit and re-designate the unit as affordable to Households of a higher income level, as long as the next vacant unit is re-designated for the income category previously applicable to the tenant's Household. Otherwise, the tenant shall be given one year's notice to vacate the unit. If during the year, another rental unit becomes available

and the tenant meets the income eligibility for that unit, the owner shall allow the tenant to apply for that unit.

(2) If there are no units designated for a higher income category within the Development that may be substituted for the original unit, the tenant shall be given one year's notice to vacate the unit. If within that year, another unit in the Residential Development is vacated, the owner may, at the owner's option, allow the tenant to remain in the original unit and raise the tenant's rent to market-rate and restrict the newly vacated unit as affordable at the income-level previously applicable to the unit converted to market rate. The newly vacated unit must be comparable in size (for example, number of bedrooms, bathrooms, square footage, etc.) as the original unit.

[*History:* Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.210 Delegation of Authority.

The City Manager shall be and hereby is authorized to delegate his or her authority under this ordinance.

[*History:* Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.211 Minimum Requirements.

The requirements of this Chapter are minimum and maximum requirements, although nothing in this Section limits the ability of a private person to waive his or her rights or voluntarily undertake greater obligations than those imposed by this Chapter.

[*History:* Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.212 Adjustments, Waivers.

(a) A developer of any project subject to the requirements of this Chapter may appeal to the City Council for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and either the amount of the fee charged or the inclusionary requirement, except where the requirements are imposed by law.

(b) A developer subject to the requirements of this Chapter who has received an approved tentative subdivision or parcel map, use permit or similar discretionary approval and who submits a new or revised tentative subdivision or parcel map, use permit or similar discretionary approval for the same property may appeal for a reduction, adjustment or waiver of the requirements with respect to the number of lots or square footage of construction previously approved, except where the requirements are imposed by law.

(c) Any such appeal shall be made in writing and filed with the City Clerk not later than ten (10) calendar days before the first public hearing on any discretionary approval or permit for the development, or if no such discretionary approval or permit is required, or if the action complained of occurs after the first public hearing on such permit or approval, the appeal shall be filed within ten (10) calendar days after payment of the fees objected to.

(d) The appeal shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment. The City Council shall consider the appeal at the public hearing on the permit application or at a separate hearing within sixty (60) calendar days after the filing of the appeal, whichever is later. The appellant shall bear the burden of presenting substantial evidence to support the appeal including comparable technical information to support appellant's position.

(e) No waiver shall be approved by the City Council for a new tentative subdivision or parcel map, use permit or similar discretionary approval on property with an approved tentative subdivision or parcel map, use permit or similar discretionary permit unless the Council finds that the new tentative subdivision or parcel map, use permit or similar discretionary approval is superior to the approved project both in its design and its mitigation of environmental impacts. The decision of the Council shall be final. If a reduction, adjustment, or waiver is granted, any change in the project shall invalidate the waiver, adjustment, or reduction of the fee or inclusionary requirement.

[*History:* Ord. 639, 1/11/06; Ord. 764, 9/28/16]

5.03.213 Enforcement Provisions.

(a) *Penalty for Violation.* It shall be a misdemeanor to violate any provision of this Chapter. Without limiting the generality of the foregoing, it shall also be a misdemeanor for any person to sell or rent to another person an inclusionary unit, or a unit restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D) under this Chapter at a price or rent exceeding the maximum allowed under this Chapter or to sell an inclusionary unit, or rent a unit restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D), to a Household not qualified under this Chapter or state law. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the City or to a seller of an Inclusionary Unit, or lessor of a unit restricted pursuant to the requirements of Government Code Section 65915(b)(1)(A)-(D), to obtain occupancy of housing for which he or she is not eligible.

(b) *Legal Action.* The Town may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including: (i) actions to revoke, deny or suspend any permit, including a Building Permit, certificate of occupancy, or discretionary approval; (ii) actions to recover from any violator of this Chapter civil fines, restitution to prevent unjust enrichment from a violation of this Chapter, and/or enforcement costs, including attorneys fees; (iii) eviction or foreclosure; and (iv) any other appropriate action for injunctive relief or damages. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any person, owner, Household or other party from the requirements of this Chapter.

[*History:* Ord. 639, 1/11/06; Ord. 764, 9/28/16]

XVI. "F" - Flood Zone

5.03.215 Regulations Established.

The regulations herein are applicable to properties zoned Flood and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to all Zones.

5.03.216 Purpose.

It is the purpose of this section to preserve essential elements of the environment, to maintain these benefits with a minimum of physical disturbance, to set forth the standards and procedures by which filling, excavating, and all other construction in the designated areas will be regulated and to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions. in specific areas by provisions designed to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage.
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- I. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- J. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- K. Control filling, grading, dredging, and other development which may increase flood damage.

5.03.217 Restriction Applicable to "F" Zone.

(a) Such zone shall be in addition to and lay over the land use zones as set forth in section 5.03.050 above. All real property in the Town of Colma lying within 50 feet of either edge of the Colma Creek, and all other real property determined by the City Engineer to be subject to a one percent chance of flooding in any given year, shall be in the F zone.

(b) No person may erect, construct, enlarge or improve any building or structure in the "F" Zone, or permit the same to be done, unless the building or structure complies with each of the following requirements:

(1) The first-floor elevation (to include basement) of any new residential structures shall be elevated to or above the 100-year flood elevation;

(2) The first-floor elevation (to include basement) of non-residential structures shall be elevated to or above the 100-year flood elevation;

(3) Only construction materials and utility equipment that are resistant to flood damage may be used at or below the 100 year flood elevation;

(4) Only construction methods and practices that will minimize flood damage may be used;

(5) Each building or structure must be designed or anchored to prevent the flotation, collapse or lateral movement of the structure or portions of the structure due to flooding;

(6) In regard to mobile homes:

(i) Over-the-top ties must be provided at each of the four corners of the mobile home with two (2) additional ties per side at the intermediate locations, and mobile homes less than fifty (50) feet long requiring one (1) additional tie per side;

(ii) Frame ties must be provided at each corner of the home with five (5) additional ties per side at intermediate points, and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side;

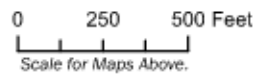
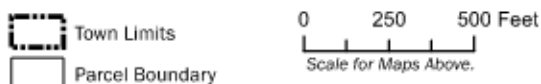
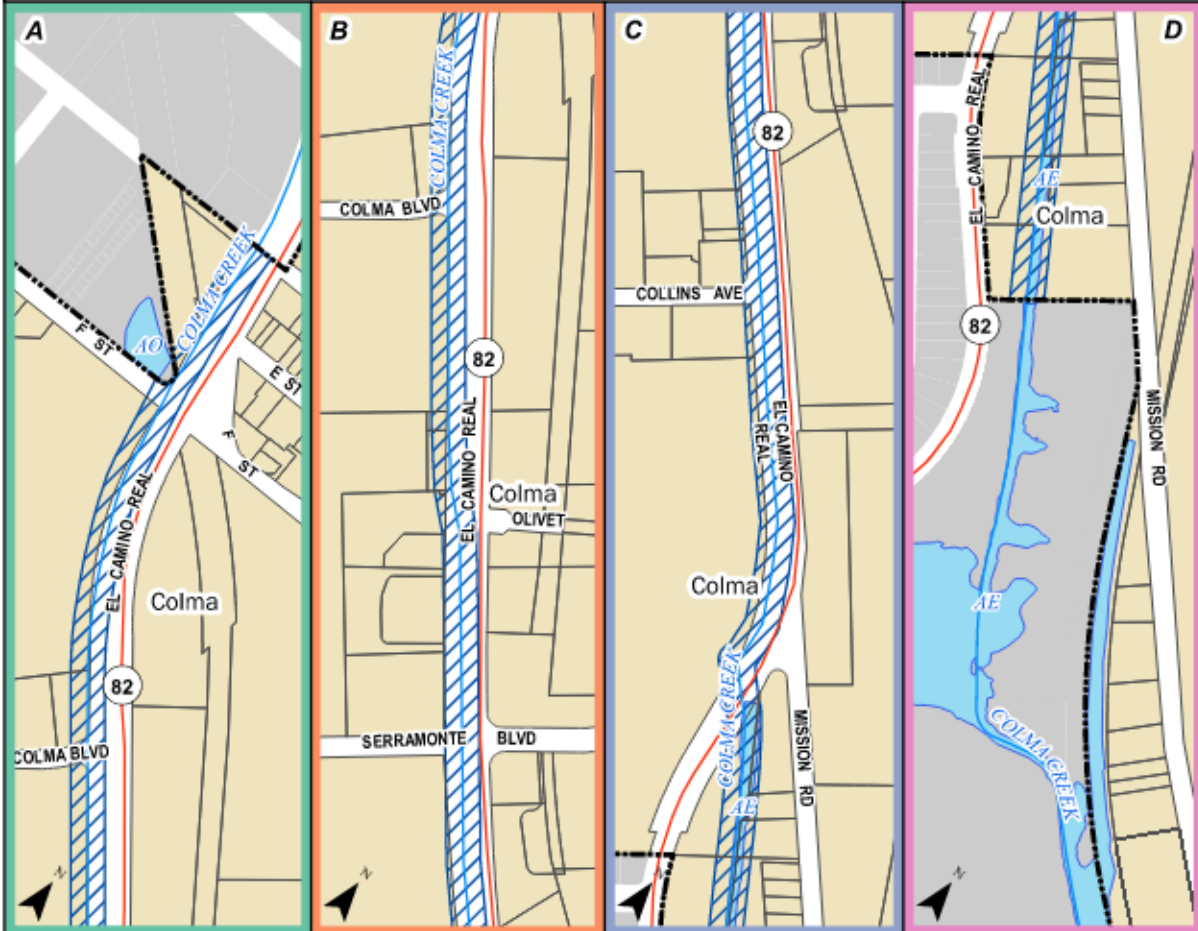
(iii) All components of the anchoring system must be capable of carrying a force of 4,800 pounds;

(iv) Any additions to mobile homes must be similarly anchored.

(c) The term "100-year flood elevation" means the elevation which is determined by the City Engineer to have a one per cent chance of flooding in any given year.

[*History:* formerly § 5.335; ORD. 290, 08/10/83; ORD. 638, 12/14/05]

Town of Colma Flood Hazard/ Safety Overlay Zone Map



Flood Hazard/ Safety Overlay Zone

- May be combined with all base zones.
- Creek Buffer Area - 50 feet on either side of Colma Creek
 - Special Flood Hazard Area (SFHA) - Includes FEMA Flood Zones AE and AO (shown outside of Town for reference)



Comprehensive zoning information is shown on separate maps included in this document.



Data provided by FEMA and San Mateo County.

Prepared by CSG Consultants, Inc., January 2024.

XVII. "T" – Transit Zone

5.03.218 Regulations Established.

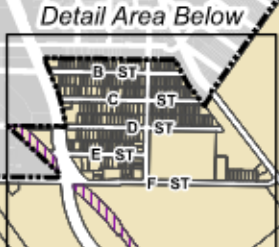
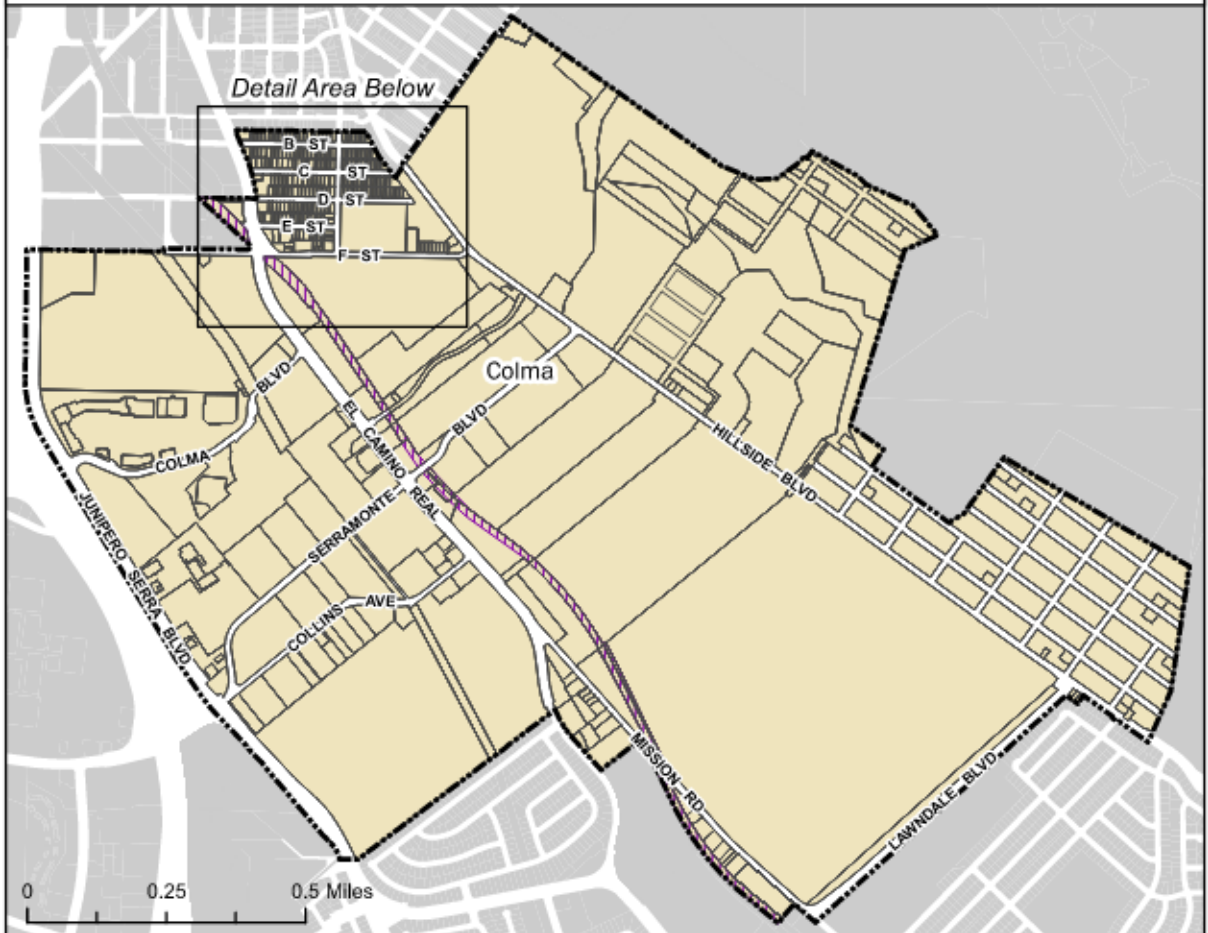
The regulations herein are applicable to properties zoned Transit and are in addition to the regulations set forth in Colma Municipal Code Section 5.03.220, Development Standards Applicable to All Zones.

5.03.219 "T" – Transit Zone Development Standards.

- (a) Such zone shall be in addition to and lay over the land use zones as set forth in section 5.03.050 above. All real property in the Town of Colma lying within the 60-foot right-of-way owned, or formerly owned, by Southern Pacific Company shall be in the T zone.
- (b) No person may erect, construct, enlarge or improve any public or private transit building or transit structure in the "T" Zone, or permit the same to be done, unless such building or structure is underground and covered with soil so as to make its location indistinguishable from adjacent terrain.
- (f) Notwithstanding the foregoing, nothing herein contained shall limit the establishment and maintenance of landscaping, fences, roads, surface parking facilities, or similar improvements in said zone.
- (g) Notwithstanding the foregoing, the portion of a parcel containing a "T" zone shall be included in determining land to building ratios, set-backs, minimum lot size, and similar zoning requirements.
- (h) Buildings and structures may be developed in the "T" Zone, subject to a Use Permit, provided the building or structure is supported on a foundation system that will not prevent the development of covered, underground public or private transit facilities at that location.

[*History:* formerly § 5.335.2; ORD. 374, 09/14/88; ORD. 460, 11/10/93; ORD. 638, 12/14/05]

Town of Colma Transit Overlay Zone Map



- Town Limits
- Parcel Boundary



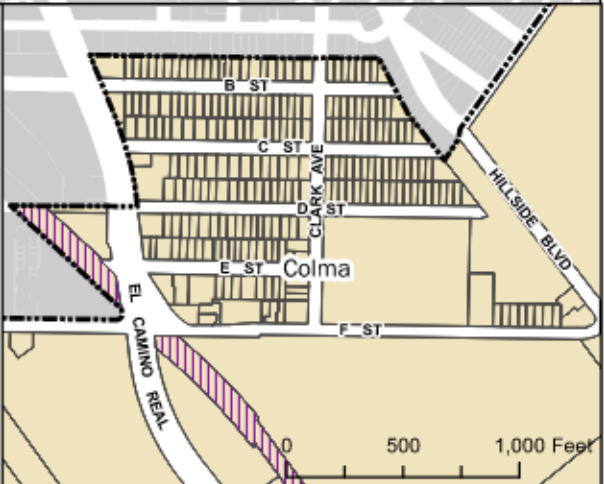
Transit Overlay Zone

May be combined with all base zones.

- 'T' - Transit



Comprehensive zoning information is shown on separate maps included in this document.



Prepared by CSG Consultants, Inc., January 2024.

XVIII. Standards Applicable to All Zones

5.03.220 Development Standards Applicable to All Zones

(a) There shall not be permitted any use which may be determined by the City Council to be obnoxious or offensive because of the presence or emission of odor, fumes, dust, gas, smoke, noise, bright lights, vibrations, pollution, detrimental sewer wastes, or have a detrimental effect on permissible adjacent uses, or will be hazardous by reason of danger of fire or explosion.

(b) In each zone there shall be provided at the time of the erection of any main building or at the time any main building is enlarged or increased in capacity, sufficient off-street parking accommodations with adequate provisions for ingress and egress by standard size automobiles. Parking access-ways, parking spaces and fire lanes shall all meet the minimum standards provided in Section 5.01.080 (Definitions) of this Code.

(c) The following uses are prohibited in all districts: amusement parks or centers, circuses, carnivals, outdoor theaters, race tracks, commercial recreation centers, stockyards, the slaughtering of animals.

(d) No person shall install, construct or maintain a fence or hedge on any property in the Town of Colma except in compliance with the following:

(1) General fence and hedge limitations:

(i) If cyclone fencing is used, it must be black vinyl clad with black painted posts and supports.

(ii) Fences shall be maintained in good repair and condition.

(iii) Hedge height limits in this section do not apply to taller landscaping planted immediately adjacent to building walls. Free standing trees are encouraged in all yard areas.

(iv) Fences with razor wire are not permitted in the Town of Colma.

(v) For corner lots, a vision triangle of 35' shall be maintained to insure safe visibility for motorists. The vision triangle shall be created by measuring along the curb line 35' in each direction from the street corner, with the endpoints connected across the lot. Within the vision triangle, no fencing or vegetation shall exceed three (3) feet in height and all tree canopies must be kept seven (7) or more feet above grade.

(vi) Any unimproved right-of-way (the area between the back of sidewalk and the front property line of any property) may contain landscape planting, irrigation and fencing.

(vii) The height of a fence shall be measured as the higher of the two sides of the fence.

(2) Fence and hedge limitations in all Residential Zones:

(i) No fence or hedge in excess of four (4) feet in height is allowed between the back of the sidewalk and front wall of any residence. An exception is permitted for a single, freestanding trellis structure not exceeding eight (8) feet in height, five (5) feet in width, and five (5) feet in depth. An exception may be granted by the City Planner through the Design Review Process if required for security, pedestrian safety, to screen out undesirable views, or for other aesthetic reasons.

(ii) No fence or hedge in excess of six (6) feet in height is allowed from the front face of the residence to the rear property line. An exception may be granted by the City Planner through the Design Review Process if required for security, pedestrian safety, to screen out undesirable views, or for other aesthetic reasons.

(iii) No barbed wire shall be permitted in a residential zone.

(3) Fence and hedge limitations for Non-Residential Zones:

(i) No fence or hedge in excess of four (4) feet in height is allowed between the back of the sidewalk and a parallel line set back thirty (30) feet from the front property line. An exception may be granted by the City Planner through the Design Review Process if required for security, pedestrian safety, to screen out undesirable views, or for other aesthetic reasons.

(ii) No fence or hedge in excess of eight (8) feet in height is allowed from the thirty (30) foot setback line to the rear of the property. An exception may be granted by the City Planner through the Design Review Process if required for security, pedestrian safety, to screen out undesirable views, or for other aesthetic reasons.

(iii) No barbed wire shall be permitted in front of the thirty (30) foot setback line. An exception may be granted by the City Planner through the Design Review Process if required for security.

(4) Prior constructing or installing a fence in excess of six feet in height, retaining wall exceeding two (2) feet in height, masonry wall, or any improvement located in the public right-of-way, owners and occupants should consult with the Building Official or City Engineer to determine if a building permit and/or encroachment permit is needed.

[*History:* formerly § 5.336, ORD. 234, 03/14/79; ORD. 313, 02/13/85; ORD. 550, 4/14/1999; ORD. 638, 12/14/05, ORD 662, 9/12/07; ORD 754, 1/13/16; ORD 766, 11/9/16; ORD 767, 12/14/16]

XIV. Off-Street Parking and Loading Regulations

5.03.230 Purpose.

The purpose of this section is to ensure that land uses in the Town provide adequate off-street parking facilities, promoting more efficient loading operations and thereby reducing the use of public streets for loading purposes and vehicle movement areas; that the use of land uses does

not adversely interfere with the circulation on public rights-of-way; that private on-site circulation does not pose potential safety issues; and that surrounding uses are insulated from noise and traffic impacts associated with off-street parking and loading activities. Refer to Section 5.03.195, Housing Element Overlay Zone District, for parking requirements in this district.

5.03.231 Applicability.

For all zoning districts, the requirements for off-street parking and loading spaces for vehicles, as provided in this section, shall apply under the following circumstances:

- (a) Construction of new structures, except accessory structures on residentially zoned properties.
- (b) Where an existing structure is structurally altered in a manner that increases the parking requirement.
- (c) Establishment of any new use. For the purposes of this section only, a “new use” is defined as one with an increased parking requirement, as established by this section, over the parking requirement, as established by this section, for the existing or latest use.

5.03.232 Parking Standards.

The Parking Standards Table lists the minimum parking requirements for each use or activity. If a particular use or activity is not listed in the Parking Standards Table, then establishment of parking requirements for that use or activity shall be determined by the City Planner or City Council upon review of a conditional use permit.

Pursuant to AB 2097, Government Code Section 65863.2, there is no minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of high quality public transit. However, a development of 19 dwelling units or fewer may impose parking requirements per Table 4 – Parking Standards below.

Table 4: Parking Standards

Type	Covered Spaces Required	Uncovered Spaces Required	Total Spaces Required
"R" Residential - Single Family up to 4 bedrooms	2	N/A	2
"R" Residential - Single Family over 4 bedrooms: add 0.5 covered for each additional bedroom	2 minimum	N/A	2 minimum
"R" Residential - Multiple Units: Studio, 1 bedroom	1.0	1.0	1.0 for either covered spaces or uncovered spaces

Table 4: Parking Standards

Type	Covered Spaces Required	Uncovered Spaces Required	Total Spaces Required
"R" Residential - Multiple Units: 2-4 bedrooms	1	1	2
"R" Residential - Multiple Units: over 4 bedrooms add 0.5 covered or uncovered for each additional bedroom	1 minimum	N/A	1 minimum
"R-S" Residential Neighborhood - Single Family Detached: over 4 bedrooms add 0.5 spaces for each bedroom	2	N/A	2
"R-S" Residential Neighborhood - Legal Second Units: Studio, 1 bedroom	N/A	N/A	N/A
"R-S" Residential Neighborhood - Multiple Units: Studio, 1 bedroom	1.0	1.0	1.0 for either covered spaces or uncovered spaces
"C" Commercial - Residential	Refer to R or R(s)	Refer to R or R(s)	Refer to R or R(s)
"C" Commercial - Retail	N/A	One (1) per one hundred (100) square feet of sales floor area, at minimum one (1) per two hundred (200) square feet of gross floor area	
"C" Commercial - Banks and Office	N/A	One (1) per three hundred (300) square foot of floor area	
"C" Commercial - Restaurants and Bars	N/A	One (1) per four (4) seats/stools	
"C" Commercial – Theatres	N/A	One (1) per five (5) seats	

Table 4: Parking Standards

Type	Covered Spaces Required	Uncovered Spaces Required	Total Spaces Required
"C" Commercial - Cardroom	N/A	Minimum of one (1) for dedicated truck loading and unloading, one (1) for truck loading and unloading space for vehicles involved in money shipment, one (1) standard space for each employee in the cardroom shift with the largest number of employees, eight (8) spaces for each gaming table, one (1) standard space for each four (4) seats/stools in restaurant and bar facilities.	
"C" Commercial - Vehicular Repair and Service	N/A	One (1) off-street for two hundred (200) square feet of gross building area, in all cases a minimum of five (5) regular off-street parking spaces	

Table 4: Parking Standards

Type	Covered Spaces Required	Uncovered Spaces Required	Total Spaces Required
"C" Commercial - Mixed Office and Warehouse	N/A	One (1) off-street parking space for each three hundred (300) square feet of office space; plus one (1) off-street parking space for each four hundred (400) square feet of warehouse space in each unit having up to 4,800 square feet of warehouse space; plus one (1) one off-street parking space for each one thousand (1,000) square feet of warehouse space in each unit having in excess of 4,800 square feet plus less than 10,00 square feet of warehouse space; plus one (1) off-street parking space for each two thousand (2,000) square feet of warehouse space in each unit having in excess of 10,000 square feet of warehouse space.	

Table 4: Parking Standards

Type	Covered Spaces Required	Uncovered Spaces Required	Total Spaces Required
"C" Commercial - All other Uses	N/A	Minimum of one (1) parking space for each five (5) regular employees, but in any case, not less than one (1) space for each two thousand (2,000) square feet of floor area, or fraction thereof.	
"C" Commercial - Commercial Centers	N/A	Five (5) parking spaces for each one thousand (1,000) square feet of gross leasable area	
"C" Commercial - Emergency Shelters	N/A	Provide off-street parking spaces totaling the sum of: 0.35 parking spaces for every bed, rounded up to the nearest whole parking space; one (1) parking space for each employee who is working at the same time as another employee; and all parking spaces required under the Americans for Disabilities Act	
"DR" Design Review	Refer to zoning	Refer to zoning	Refer to zoning
"DR (S)" Design Standards	Refer to zoning	Refer to zoning	Refer to zoning

Table 4: Parking Standards

Type	Covered Spaces Required	Uncovered Spaces Required	Total Spaces Required
"E" Executive Administrative - Retail Stores	N/A	One (1) parking space for each one hundred (100) square feet of sales floor area, but in no case less than one (1) space for each two hundred (200) square feet of gross floor area	
"E" Executive Administrative - Professional Business and Medical Service Offices	N/A	One (1) parking space for each three hundred (300) square feet of gross floor area	
"E" Executive Administrative - Restaurants	N/A	One (1) parking space for each four (4) seats for seating other than private banquet facilities, no greater than one (1) parking space for each four (4) seats	
"E" Executive Administrative - All other uses	N/A	Minimum one (1) space for each five (5) regular employees, but not less than one (1) space for each two thousand (2,000) square feet of gross floor area, or fraction thereof	
"G' Cemetery	N/A	Applicable to any golf course use only: 200 cars or more	N/A

Table 4: Parking Standards

Type	Covered Spaces Required	Uncovered Spaces Required	Total Spaces Required
"PD" Planned Development	Refer to Ordinance associated with PD	Refer to Ordinance associated with PD	Refer to Ordinance associated with PD
"T" Transit	N/A	N/A	N/A

5.03.233 Calculation of Parking

The parking number calculation for a business shall be based on the one use which is the primary function of the business or user as determined by the City Planner, rather than the aggregate number of the individual functional spaces within the business. The parking calculation for a building or project shall be based upon the aggregate of the parking requirement of all the individual businesses and/or tenants.

5.03.234 Location of Required Parking.

All permitted and required off-street parking spaces, open or enclosed, shall be located on the same parcel as the use for which such spaces are required.

IXX. Conditional Uses

5.03.240 Purpose.

The purpose of Conditional Uses is to allow for uses within a zoning district which, by the conditions, are made compatible with the primary uses of the district.

To give the use regulations the flexibility necessary to achieve the objectives of this title and to account for the widely varying needs of some uses, certain conditional uses are permitted in each district subject to the granting of a conditional use permit. Conditional uses include various types of public and private structures and uses which do not precisely fit into the zoning district classifications. Because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of this title and with respect to their effects on surrounding properties. To achieve these purposes, the City Council is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits.

5.03.241 Application for Use Permit.

Application for use permit for any use for which a permit is required by the applicable district regulations shall be filed with the Town on forms provided, together with such other information as may be required by the hearing body and with the required fee.

5.03.242 Standards for Granting Use Permit.

- (a) A Use Permit may be granted by the City Council only if:
- (1) The specific proposed use will be consistent with the provisions of the General Plan and this subchapter;
 - (2) The granting of the Use Permit will not be detrimental to the public health, safety or public welfare, or materially injurious to properties or improvements in the vicinity;
 - (3) Existing property uses, large or small, will not be detrimentally affected by the proposed use;
 - (4) The granting of the Use 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;
 - (5) The City Council is satisfied that the proposed structure or building conforms to the purposes and intent of the General Plan and this subchapter; and
 - (6) The use will not constitute a nuisance as to neighboring persons or properties.
 - (7) If applicable, any findings required by Subchapter 5.17 are met.
- (b) In granting a Use Permit, the City Council may 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, provided that no Use Permit may be conditioned upon:
- (1) The dedication of land for any purpose not reasonably related to the use of property for which the Use Permit is requested; or
 - (2) The posting of a bond to guarantee installation of public improvements not reasonably related to the use of the property for which the Use Permit is requested.

[*History:* formerly § 5.341; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

5.03.243 Effective Date of Decision to Grant or Deny Use Permit; Reconsideration.

The decision to grant or deny the application for a Use Permit shall become effective upon expiration of ten (10) days following action of the City Council, unless a written request for reconsideration along with a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution, shall have been filed with the City Clerk in accordance with Section 1.02.260 of this Code within the ten (10) day period by any person affected by said

decision.

[*History:* formerly § 5.342, ORD. 234, 3/14/79; ORD. 524, 1/14/98; ORD. 638, 12/14/05; ORD. 691, 07/14/10]

5.03.244 Lapse of Use Permit; Extension.

(a) A Use Permit shall lapse and become null and void one (1) year following the date on which the Use Permit became effective unless, prior to the expiration of one (1) year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the Use Permit application, or unless the Use Permit is renewed. The City Planner shall determine whether or not construction has been commenced and diligently pursued as above required.

(b) Notwithstanding section (a) above, a Use Permit that would otherwise lapse pursuant to section (a) may be extended for an additional period of one (1) year from the Use Permit's original effective date in accordance with this subsection. A complete application for extension of the Use Permit setting forth good and sufficient reasons for the renewal must be filed with the City Planner at least 60 days in advance of the date that the Use Permit would otherwise lapse. The City Planner shall notice and conduct the public hearing on the application for extension of Use Permit as set forth in sections 1.02.230 and 1.02.240 of this Code. The City Planner may grant the application, with or without conditions, if the Planner finds that there is a good and sufficient reason to extend the permit and that the Use Permit continues to comply with the grounds set forth in section 5.03.242(a) of this subchapter. The Planner's decision to grant or deny the extension shall be in writing, explaining the basis therefore. More than one extension to a Use Permit may be requested and granted pursuant to this section.

(c) Any interested party may appeal a determination made by the City Planner pursuant to this section to the City Council in accordance with the procedures set forth in section 1.02.270 of this Code.

[*History:* ORD. 691, 07/14/10]

5.03.245 Duration of Use Permit.

The Use Permit, and all conditions attached thereto, shall run with the land unless:

- (1) There is a change in the law on ordinances authorizing such use; or
- (2) The Use Permit has lapsed in accordance with section 5.03.244 above or has been revoked in accordance with section 5.03.246 below.

Where no expiration date is established by the City Council, the Use Permit may continue to operate provided that it is in compliance with all conditions of approval and other applicable requirements of this Code.

[*History:* ORD. 691, 07/14/10]

5.03.246 Revocation of Use Permit.

A Use Permit may be revoked upon failure to comply with the provisions therefore. Revocation proceedings shall be initiated upon demand by the City Council. Written notice of the revocation proceeding shall be posted on the three (3) official bulletin boards of the Town of Colma and mailed to the owner of the property affected at the address shown on the last tax roll of San Mateo County at least ten (10) days before the matter is brought before the City Council. In lieu of revocation, the City Council may add to, delete or amend conditions of the Use Permit.

[*History:* formerly § 5.343; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

XX. Temporary Use Permits

5.03.250 Purpose.

The purposes of this ordinance are to:

- (a) Expedite the issuance of permits to businesses for temporary activities such as outdoor sales events and promotions, Christmas tree lots, and temporary storage, while requiring the businesses to adhere to minimum standards necessary to protect property values and the public health, safety and welfare while increasing commercial trade in the Town; and
- (b) Provide for the issuance of permits for on-site construction yards.

[*History:* New, ORD. 713, 10/10/12]

5.03.251 Permit Required; Effective Date.

- (a) No person may use or permit property to be used for a temporary use without first obtaining a Temporary Use Permit approved by the Zoning Administrator. Temporary or short-term activities that do not fall within the categories defined in this Division shall instead comply with the land use permit requirements and development standards that otherwise apply to the property.
- (b) A Temporary Use Permit issued for a period of 45 days or less shall become effective on the date the permit is approved by the Zoning Administrator. A Temporary Use Permit issued for a period that exceeds 45 days shall become effective seven calendar days from the date the Zoning Administrator finds that a Temporary Use Permit should be issued.

[*History:* New, ORD. 713, 10/10/12]

5.03.252 Application Process; No Public Hearing.

- (a) To obtain a Temporary Use Permit, the applicant must submit an application on a form prescribed by the Zoning Administrator at least five working days before the use is intended to begin for Tier One Temporary Use Permits and at least fifteen working days before the use is intended to begin for Tier Two Temporary Use Permits. The application shall include written consent of the owner of the property or the agent of the owner. The application shall include a site plan showing the location of the proposed temporary use and a full description of the use, days proposed, hours proposed, equipment required, and any other information requested by the

Zoning Administrator to review the proposed use.

(b) The application shall be reviewed by the Zoning Administrator to verify compliance with all applicable laws and regulations. Upon making the required findings specified in this Division, the Zoning Administrator may grant, with such conditions as are authorized herein, a Temporary Use Permit for the term specified in the Permit.

(c) A public hearing shall not be required for issuance of a Temporary Use Permit.

[*History:* New, ORD. 713, 10/10/12]

5.03.253 Tier 1 Temporary Uses.

Notwithstanding any other provision of the Colma Municipal Code and subject to compliance with all applicable ordinances and regulations, the following uses are permitted upon issuance of a Tier 1 Temporary Use Permit:

(a) *Outdoor Sales Event in the Commercial Core.* An outdoor sales event may be conducted over a maximum of five consecutive days and not more than once every three calendar months. All Temporary Uses outside of the Commercial Core require a Tier 2 Temporary Use Permit.

(b) *Promotional Event.* A Promotional Event may be conducted over a maximum of five consecutive days not more than once a calendar year at any location. Hours for the event must be between 7:00 a.m. and 10:00 p.m. Events occurring before 7:00 a.m. or after 10:00 p.m. require a Tier 2 Temporary Use Permit.

(c) *Temporary Storage of Merchandise.* Outdoor storage containers may be used for the temporary storage of merchandise or inventory for a period not to exceed 45 days in a calendar year. The storage container must not be visible from any public roadway and must not occupy any required parking spaces. In all other cases, the use of outdoor storage container requires a Tier 2 Temporary Use Permit.

(d) *Construction Yard without Office or Overnight Facilities.* A property may be used for a Construction Yard without Office or Overnight Facilities during the period from commencement of construction under a valid building permit to completion of the construction or abandonment of the project. Storage containers must be located as far away from the public right-of-way as possible and be located to minimize loss of required parking for the site. Containers for removal or disposal of construction debris shall be removed as shortly after they are filled as is reasonably practicable.

(e) *Other Tier 1 Temporary Uses.* A property may be used for any other temporary use which, in the opinion of the Zoning Administrator, meets each of the following criteria:

(1) The use is compatible with the district and surrounding land uses;

(2) The use is for a period not to exceed five days in a calendar year;

(3) The use will leave adequate on-site parking and access to accommodate both the permanent and temporary use of the property;

- (4) The use is limited to the hours between 7:00 a.m. and 10:00 p.m.; and
- (5) The use does not include any Tier 2 Temporary Uses.

[*History:* formerly § 5.329, ORD. 563, 10/18/99; ORD. 638, 12/14/05; ORD. 713, 10/10/12]

5.03.254 Tier 2 Temporary Uses.

(a) Notwithstanding any other provision of the Colma Municipal Code and subject to compliance with all applicable ordinances and regulations, the uses described in this section are permitted upon issuance of a Tier 2 Temporary Use Permit.

(b) *Outdoor Sales Event outside of the Commercial Core.* An outdoor sales event may be conducted outside of the Commercial Core over a maximum of five consecutive days not more than once every three calendar months.

(c) *Construction Yards with Office or Overnight Facilities.* A property may be used for a Construction Yard with Office or Overnight Facilities during the period from commencement of construction under a valid building permit to completion of the construction or abandonment of the project. Storage containers must be located as far away from the public right-of-way as possible and be located to minimize loss of required parking for the site. Containers for removal or disposal or construction debris shall be removed as shortly after they are filled as is reasonably practicable.

(d) *Christmas Tree Lots and Pumpkin Patches.* Outdoor sales of holiday trees, pumpkins, and similar perishable goods, including decorations, may be conducted for a period of not more than 45 consecutive days in a calendar year.

(e) *Outdoor produce markets.* Outdoor sales of produce may be conducted one a week for not more than 25 weeks.

(f) *Indoor Seasonal Sales.* A holiday store, e.g., a store that sells primarily Halloween, Thanksgiving, Christmas or items celebrating a holiday, may be conducted in vacant commercial space for no more than 45 days in a calendar.

(g) *Overnight Facilities or Residential Trailers.* A mobile trailer or any structure with overnight facilities (e.g., a bed, kitchen or rest room) for security personnel may be permitted in conjunction with any Temporary Use.

(h) *Promotional or Sales Events.* A Promotional or Outdoor Sales Event that will occur before 7:00 a.m. and after 10:00 p.m. may be conducted over a maximum of five consecutive days not more than once a calendar year at any location.

(i) *Business or Sales Offices.* A business or sales office or facility may be permitted in conjunction with and during any Tier 2 Temporary Use.

(j) *Similar Tier 2 Temporary Uses.* A temporary use that does not meet the criteria for a Tier

1 Temporary Use may be conducted upon a finding that such use is compatible with the district and surrounding land uses.

[*History:* New, ORD. 713, 10/10/12]

5.03.255 Required Findings.

(a) The Zoning Administrator may approve a Temporary Use Permit only upon making each of the following findings:

- (1) The proposed use will be for a limited duration and time and will not permanently alter the character or physical facilities of the site where the use occurs;
- (2) The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the area of such use or to the general welfare of the Town;
- (3) The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas;
- (4) The proposed use will not block fire lanes or required access roads, and will not pose a fire hazard; and
- (5) The proposed use is not prohibited by an federal or state law or regulation or any other applicable provision of the Colma Municipal Code.

(b) The Zoning Administrator shall prepare a written decision on the Temporary Use Permit application, which shall contain the finding of fact upon which the decision is made.

[*History:* New, ORD. 713, 10/10/12]

5.03.256 Conditions of Approval.

(a) The Zoning Administrator may impose reasonable conditions deemed necessary to ensure compliance with the findings for a Temporary Use Permit or with other provisions of the Colma Municipal Code, including conditions:

- (1) Requiring completion of the temporary use by a specified date;
- (2) Requiring temporary parking facilities, including vehicular ingress and egress;
- (3) Regulating nuisance factors such as prevention of glare or direct illumination of adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
- (4) Regulating of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other

yards;

- (5) Requiring sanitary or medical facilities;
- (6) Requiring solid waste collection and disposal;
- (7) Requiring security and safety measures;
- (8) Regulating signs;
- (9) Regulating operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested;
- (10) Requiring a performance bond or other security to assure that any temporary facilities or structures used for the proposed temporary use will be removed from the site following the event and that the property will be restored to its former condition; or
- (11) Requiring compliance with all other applicable laws and regulations, including the obtaining of other entitlement, licenses, permits, and inspections.

(b) The Zoning Administrator may impose other conditions to ensure that the operation of the proposed temporary use occurs in an orderly and efficient manner and in accordance with the intent and purpose of this Division.

5.03.257 Term; Extension.

(a) The Zoning Administrator may issue a Temporary Use Permit to allow multiple events of the same temporary use, e.g., multiple sales events or multiple promotional events, on condition that the expiration of the last such event shall not be later than one year after the beginning of the first such event covered by the permit.

(b) A Temporary Use Permit shall be issued for the term specified in the Permit, which shall not be greater than one year, except that the Zoning Administrator may grant a Temporary Use Permit for a Construction Yard for an initial term longer than one year.

(c) The Zoning Administrator may extend a Temporary use Permit for up to one year at a time.

[*History:* New, ORD. 713, 10/10/12]

5.03.258 Revocation.

(a) Upon receipt of information that grounds for revocation may exist, the Zoning Administrator may hold a revocation hearing. Notice of the hearing shall be posted on the three Town bulletin boards and shall be served either in person or by registered mail on the owner of the property and on the permit holder at least three days prior to a hearing to revoke a Tier 1 Temporary Use Permit and at least ten days prior to a hearing to revoke a Tier 2 Temporary Use Permit. The notice of hearing shall contain a statement of the specific reasons for revocation.

(b) The Zoning Administrator may revoke an approved Temporary Use Permit upon finding that:

(1) It is reasonably foreseeable that the use may not end within the term specified in the Permit and that no good cause for extension thereof has been shown by the permit holder;

(2) It is reasonably foreseeable that the use may permanently alter the character or physical facilities of the site where the use occurs;

(3) Continued use will unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, or will constitute a nuisance, or will be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the area of such use or to the general welfare of the Town;

(4) Continued use will unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, or will create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas;

(5) The Temporary Use Permit was obtained by misrepresentation or fraud;

(6) The use for which the Temporary Use Permit was granted has ceased or has been suspended for six or more consecutive calendar months; or

(7) The conditions of the permit have not been met, or the temporary use is being or has recently been conducted contrary to the terms of the approval or in violation of a specific statute, ordinance, law or regulation.

(c) A written determination of revocation of a Temporary Use Permit shall be mailed to the property owner and the permit holder within 10 days of such determination.

[*History:* New, ORD. 713, 10/10/12]

5.03.259 Appeal.

(a) Any aggrieved person may appeal the Zoning Administrator's decision to deny a Tier 1 Temporary Use Permit or to grant or deny a Tier 2 Temporary Use Permit, in accordance with the procedures set forth in section 1.02.270 of the Colma Municipal Code. A decision to grant a Tier 1 Temporary Use Permit cannot be appealed.

(b) The City Manager may issue a stay of Zoning Administrator's decision while the appeal is pending.

[*History:* New, ORD. 713, 10/10/12]

5.03.260 Posting.

(a) For a Temporary Use Permit lasting less than 45 days, the Permittee shall post a copy of the Temporary Use Permit on the subject property throughout during the entire period of the

temporary use.

(b) For a Temporary Use Permit lasting 45 days or more, the Permittee shall make a copy of the Temporary Use Permit available for inspection at the subject property during normal business hours throughout the entire period of the temporary use.

[*History:* New, ORD. 713, 10/10/12]

XXI. Variance

5.03.270 Purpose

The variance process provides for Zoning Administrator or City Council review of requests for relief from the strict application of the requirements of this section and may be requested and granted as provided by this chapter. In addition to the general purposes of this section, the specific purposes of establishing procedures for variances are as follows:

(a) To provide relief from the strict application of the Zoning Ordinance when special circumstances apply to the property, including size, shape, topography, location or surroundings, and the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning district; and

(b) To ensure conditions are applied so that the adjustment authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which such property is situated.

5.03.271 Application for Variance.

(a) An application for a variance shall be made on the Town of Colma Project Application and shall contain such information as is necessary to complete the Project Application. In addition, the application shall contain sufficient information to enable the City Council to determine whether the standards for granting a variance are met.

(b) The application shall be reviewed by the City Planner for completeness in accordance with section 5.01.040 of this Code.

(c) Within ten (10) days after the City Planner has determined that the application is complete, he shall transmit the same to the City Council for his recommendations. This time limitation is merely directory, not mandatory.

(d) A public hearing shall be held by the City Council prior to taking any action to grant or deny any variance. The public hearing shall be conducted in accordance with the provisions of section 1.02.120 of this Code. Whenever possible, the public hearing required by this section shall be held at the same time as, and in conjunction with, the public hearing, if any, on the final EIR for the project for which the variance is requested.

(e) An application for a variance shall be accompanied by a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution.

[*History*: formerly § 5.345, ORD. 234, 3/14/79; ORD. 443, 9/9/92; ORD. 524, 1/14/98; ORD. 638, 12/14/05]

5.03.272 Standards for Granting a Variance.

(a) Variances from the terms of the Zoning Ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

(b) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

(c) In granting a variance, the City Council may 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, provided that no variance may be conditioned upon:

(1) The dedication of land for any purpose not reasonably related to the use of the property for which the variance is requested; or

(2) The posting of a bond to guarantee installation of public improvements not reasonably related to the use of the property for which the variance is requested.

[*History*: formerly § 5.346; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

5.03.273 Effective Date of Variance.

The decision to grant or delay a variance shall become effective upon expiration of ten (10) days following action of the City Council, unless a written request for reconsideration along with a filing fee, which shall be established from time to time by the City Council of the Town of Colma by resolution, shall have been filed with the City Clerk in accordance with section 1.02.130 of this Code within said ten (10) day period by any person affected by said decision.

[*History*: formerly § 5.347, ORD. 234, 3/14/79; ORD. 524, 1/14/98; ORD. 638, 12/14/05]

XXII. Amendment

5.03.280 Purpose

The City Council may amend the regulations and reclassify districts in this title or subsequently established.

5.03.281 Application for Amendment.

(a) An application for an amendment described in section 5.03.282(a) of this Code shall be

made on the Town of Colma Project Application and shall contain such information as is necessary to complete the Project Application. In addition, the application shall contain sufficient information to enable the City Council to determine whether the standards for granting an amendment are met.

(b) The application shall be reviewed by the City Planner for completeness in accordance with section 5.01.040 of this Code.

(c) Within ten (10) days after the City Planner has determined that the application is complete, he shall transmit the same to the City Council with his recommendations. This time limitation is merely directory, not mandatory.

(d) A public hearing shall be held by the City Council prior to taking any action to grant or deny any amendment. The public hearing shall be conducted in accordance with the provisions of section 1.02.120 of this Code. Whenever possible, the public hearing required by this section shall be held at the same time as, and in conjunction with, the public hearing, if any, on the final EIR for the project for which the amendment is requested.

(e) An application for an amendment shall be accompanied by a fee, which shall be established from time to time by the City Council of the Town of Colma by resolution.

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

5.03.282 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]

5.03.283 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]

5.03.284 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]

XXIII. Administrative Permits

5.03.290 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator, 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 Zoning Administrator for completeness.

(d) If state law or this Code requires the use permit or other entitlement to be considered at a public hearing, the Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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 5.03.290, 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 Zoning Administrator 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 Zoning Administrator 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; ORD. 706, 3/14/12]

[*Cross-References:* § 5.03.300(c), Accessory Buildings; § 5.03.350, Minor Uses]

XXIV. Accessory Buildings

5.03.300 Purpose.

This section defines detached accessory structures on private property and establishes development standards for nonexempt structures. The purpose of this section is to protect public health, safety and welfare by maintaining safe distances between structures, establishing architectural compatibility between primary structures and certain types of accessory structures, and minimizing potential impacts associated with lot coverage, privacy, and maintenance of light and air space.

(a) 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 Zoning Administrator in accordance with the procedures set forth in Section 5.03.290 of this Code provided that the City Planner makes the findings for a use permit set forth in section 5.03.242 of this Code, and provided 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 5.03.082 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.

(b) Accessory buildings may be permitted in the "R-S" Zone in accordance with section 5.03.092:

(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 Zoning Administrator in accordance with the procedures set forth in Section 5.03.290 of this Code provided that the City Planner makes the findings for a use permit set forth in section 5.03.242 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 5.03.082 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.

XXV. Non-Conforming Building and Uses

5.03.310 Purpose.

The purpose of this section with regard to nonconforming structures and structures with nonconforming uses is:

- A. To maintain the housing stock and preserve the community character, consistent with the General Plan.
- B. To provide necessary routine maintenance and repair of older homes and structures.

- C. To improve the safety of housing and nonresidential structures.
- D. To mitigate adverse impacts upon abutting neighbors and the neighborhood in general.
- E. To allow nonconforming structures and single-family residential uses to continue but not to exacerbate existing nonconforming conditions.
- F. To encourage conformance with current zoning requirements where feasible.
- G. To establish a time frame for reconstruction of nonconforming uses and structures that have been abandoned after which compliance with current zoning requirements would be necessary.
- H. To restrict the expansion or relocation of nonconforming multiple-family residential and commercial structures and/or nonconforming uses.
- I. To encourage preservation, maintenance, restoration and rehabilitation of structures listed on the 'Colma Historical Resources' inventory:

(a) A non-conforming building may be maintained, except as otherwise provided in this section, and repairs and alterations may be made to such building provided that in a building or structure which is non-conforming as to use regulations, no structural alteration shall be made nor shall a building be added to, or enlarged in any manner, unless such building, including such additions and enlargements, are made to conform to all regulations of the zone in which it is located. No non-conforming building shall be moved in whole or in part to any other location on the lot unless every portion of said building is made to conform to all the requirements of the zone in which it is located.

(b) A non-conforming building which is damaged or partly destroyed by fire, flood, wind, earthquake, or other calamity or Act of God or the public enemy, to the extent of more than fifty (50) per cent of its value at that time, may be restored provided the total cost of such restoration does not exceed fifty (50) per cent of the value of the building at the time of such damage. In the event such damage or destruction exceeds fifty (50) per cent of the value of such non-conforming building or structure, no repairs or reconstruction shall be made unless every portion of such building is made to conform to all regulations for new buildings in the zone in which it is located.

(c) Except as otherwise provided in this subsection the non-conforming use of a building, existing at the time this ordinance became effective, may be continued; the use of a non-conforming building may be changed to a use of the same or more restricted classification; however, if so changed, it shall not thereafter be changed to a use of a less restricted classification. A vacant non-conforming building may be occupied by a use for which the building was designed or intended if so occupied within a period of one (1) year after the effective date of this ordinance, and the use of a non-conforming building which becomes vacant after the effective date of this ordinance may also be occupied by a use for which the building was designed or intended if so occupied within a period of one (1) year after the building becomes vacant.

(d) A non-conforming use of a building conforming to the use regulations shall not be expanded or extended into any other portion of said building nor changed, except to a conforming use. If such a non-conforming use or portion thereof is discontinued or changed to a conforming use, any further use of such building or portion thereof shall be in conformity with the regulations of the zone in which said building is located.

(e) The non-conforming use of land (where no building is involved), existing at the time this ordinance became effective, may be continued; provided that no such non-conforming use of land shall in any way be expanded or extended either on the same or adjoining property, and further provided that, if such non-conforming use of land or any portion thereof is discontinued or changed, any future use of land shall be in conformity with the provisions of this ordinance.

[*History:* formerly § 5.344; ORD. 234, 3/14/79; ORD. 638, 12/14/05]

XXVI. Other Uses

5.03.350 Minor, Short-term, and Temporary Uses.

(a) The Zoning Administrator may grant a Minor Use Permit in accordance with the procedures set forth in the section entitled, "Administrative Permits," upon finding that:

- (1) The proposed activity is exempt from CEQA review;
- (2) The proposed use or activity will not pose any significant land use consequences;
- (3) The proposed use or activity has direct access from a major or secondary thoroughfare;
- (4) Provision has been made to minimize noise and dust from the activity;
- (5) The property and principal building thereon is not in violation of any applicable zoning or building codes;
- (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 to neighboring persons or properties.

(b) The Zoning Administrator 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; ORD. 713, 10/10/12]

5.03.351 Home Office Use – Purpose and Recitals.

(a) Prior to the adoption of sections 5.03.351, *et seq.*, relating to Home Office uses, the City Council could allow the incidental use of a residence for a dwelling unit by a resident of the premises only by granting a Conditional Use Permit. The process of obtaining a use permit for a home office use is a time-consuming, costly process. Yet, in most cases, the City Council found that the proposed home office use was compatible with the use of surrounding properties and consistent with the residential nature of the area. In these cases, the City Council would approve the application for a home office permit, usually with a substantially similar set of conditions.

(b) The City Council desires to streamline the process for allowing the incidental use of a residence for a dwelling unit consisting solely of the use of office furniture and equipment therein by a resident of the premises while retaining the ability to deny applications by certain business activities or for certain uses that may be injurious and inimical to the public health, safety and welfare of the residents of the City, or will contribute substantially and increasingly to the deterioration of neighborhoods.

(c) Thus, the purposes of this subchapter are to:

(1) Allow a resident to use a dwelling unit for a home office use, as defined herein, upon obtaining a Zoning Clearance issued by the Zoning Administrator, instead of obtaining a use permit; and

(2) Require that a conditional use permit be obtained for certain business activities or for certain uses as a means to prevent uses that may be injurious and inimical to the public health, safety and welfare of the residents of the City, or will contribute substantially and increasingly to the deterioration of neighborhoods.

(d) Prohibition of a non-conforming activity or use is in the best interest of the health, safety and welfare of the residents of the Town because maximum use and enjoyment of properties closely proximate to one another depends upon limitations on commercial and other uses within residential areas. The beneficial effects of maintaining a minimum standard of residential activities include, but are not limited to, appreciation of property values, physical improvement of residential and commercial areas, attraction of investors of capital to residential and commercial zones, increase in commercial trade and increase in the tax base of the City.

(e) This subchapter is consistent with the Town of Colma General Plan, which provides in that, "Colma's plan allows for a mix of residential types and unit sizes to occur. Land designated for residential purposes can be used for single family homes and small day care facilities as allowed uses. Home occupations and large child care facilities may be allowed subject to a Use Permit."

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12]

5.03.352 Home Office Use – Scope; Prohibition.

- (a) This subchapter applies to all dwelling units in the Town regardless of each dwelling unit's respective zoning designation.
- (b) No person may use any part of a dwelling unit as an office for business purposes except:
 - (1) after the Zoning Administrator has issued a Zoning Clearance for a Home Office Use for the property, and only so long as the property is being used in compliance with the provisions of this Code; or
 - (2) after the City Council has granted a Conditional Use Permit for a Home Occupation Use for the property, and only so long as the property is being used in compliance with the provisions of this Code.

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12]

5.03.353 Home Office Use – Zoning Clearance; Prohibited Activities.

- (a) The Zoning Administrator shall issue a Zoning Clearance for a Home Office Use upon making a finding, based on substantial evidence, that:
 - (1) the building is a legal dwelling unit in a location zoned for residential use;
 - (2) a resident of the dwelling unit will use the home office either as an office or a place of instruction;
 - (3) the Home Office Use will not include any use or activity that is prohibited by subsection (b) of this section;
 - (4) the Home Office will conform to the building requirements and space limitations set forth in subsection (c) of this section; and
 - (5) the Home Office Use will not include any use or activity that is not incidental to or incompatible with residential activities.
- (b) The following uses or activities are prohibited in, on or about a dwelling unit for which a Zoning Clearance has been issued for a Home Office Use:
 - (1) *Changes to Residential Character.* A home office use that interferes with, frustrates, or obstructs the primary use of the property as a residence or which changes the color, material, construction or lighting of the premises to attract business is prohibited.
 - (2) *Parking or storing commercial vehicles and attachments.* A vehicle used primarily in connection with the Home Office use shall not be parked, stopped or stored on the

subject property or on any public street in the "R" or "R-S" Zone in the Town. Equipment attached to a vehicle used primarily in connection with the Home Office Use shall not be parked, stopped or stored on the subject property or on any public street in the "R" or "R-S" Zone in the Town.

(3) *Direct Sales Prohibition.* Use of a home office or dwelling unit for the direct sales of goods, merchandise, or services is prohibited except by mail, telephone or other mode of electronic communication and where no merchandise is physically delivered to, sent from, or stored at the premises.

(4) *Sales of Illegal or Regulated Items and Services.* Use of a home office or dwelling unit for the illegal sale, either direct or indirect, is prohibited. Examples include but are not limited to: sale of firearms [as defined by Penal Code Section 12001(b), as may be amended from time to time]; sale of hazardous materials, fireworks or explosives; sale of alcoholic beverages made on the premises or elsewhere; sale of prescription medications or narcotics; sale of illegally imported items; and appointments for massage or escort services.

(5) *Environmental Disturbances.* Use of a home office or dwelling unit to emit, release, cause or create any of the following, or permitting the use of a home office or dwelling unit to emit, release, cause or create any of the following is prohibited: objectionable noise [in excess of 45 decibels, "A" weighted day-night level or dBA(LDN)], electrical or magnetic interference, vibration, release of particulate matter, odor, heat, humidity, glare, refuse, radiation, interference with the transmission of communications, interference with radio or television reception, or other objectionable emissions, effects or hazards, which increase these effects above the local ambient level or create a potential danger to the community.

(6) *Equipment and Furniture.*

(i) Where the dwelling is used an office, only office equipment, such as facsimile machines, table-top copy machines, phones, personal computers, laptops, and electronic tablets, and office furniture are permitted;

(ii) Where the dwelling is used for music lessons, only musical instruments and office furniture are permitted;

(iii) Machinery and equipment not normally found in a residence are not permitted in a home office.

(7) *Manufacturing and Fabrication Equipment.* The manufacture or fabrication of goods is prohibited.

(8) *Place of Instruction Limitations.* Use of a home office as a place of instruction is limited as follows:

(i) There shall not be more than two students at a time and not more than six students per day at the dwelling unit;

(ii) All lessons shall be by appointment only, and recitals are not permitted; and

(iii) lessons shall be in a subject taught at an accredited grammar or high school or in playing a musical instrument, such as the piano or guitar.

(9) *Nonresident Employees.* Use of a home office or dwelling unit by an employee not residing on site to conduct business is prohibited, except that this prohibition does not apply to a domestic servant, such as a maid, gardener, or babysitter, who has been hired to assist in maintaining the household or caring for a resident.

(10) *Signage.* No person may install or permit a sign for a home office use that is not in conformance with the regulations for the district in which the business is located.

(11) *No Business Guests.* The Permittee shall not receive any clients, customers vendors, subcontractors or other persons intending to transact business at the Subject Property. Permittee shall not allow any employees or independent contractors working for Permittee in connection with the Home Office Use to work or congregate at or around the Subject Property.

(12) *On-Site Client or Business Associate Meeting.* Use of a home office or dwelling unit for an on-site client visit or meeting is prohibited. All meetings between or among clients, business associate or employees shall be conducted off-site from the dwelling unit.

(13) *Hazardous Material Storage or Use.* Hazardous chemicals or substances not normally found at a residence, such as cleaning supplies, laundry supplies or garden chemicals in quantities appropriate for single dwelling use, are prohibited.

(c) *Building and Structural Requirements.*

(1) *Enclosure.* All activities related to the home office use must be conducted within the enclosed, livable area of the premises.

(2) *Area.* The maximum area that may be used for a home office shall not exceed 200 square feet.

(3) *Structure.* A dwelling unit may not have an entrance to a space devoted to a home office use that is not from within the building, or with internal or external alterations or construction features not customary in dwellings.

(4) *Garage.* The use of the garage or carport of a dwelling unit to store merchandise or equipment or to conduct any business activity is prohibited.

[*History:* New, ORD. 706, 3/14/12; ORD. 713, 10/10/12]

5.03.354 Home Office Use – Zoning Clearance Process.

(a) The Zoning Administrator shall issue a Zoning Clearance for a Cottage Food Operation Use upon making a finding, based on substantial evidence, that:

- (1) the building is a legal dwelling unit in a location zone for residential use;
- (2) a resident of the dwelling unit will be the Cottage Food Operator;
- (3) the Cottage Food Operation Use has met the registration requirements for a "Class A" operation or the permitting requirements for a "Class B" operation from San Mateo County Environmental Health Department and complies with the California Health and Safety Code by providing the appropriate documentation from the San Mateo County Environmental Health Department;
- (4) the Cottage Food Operation Use will not include any use or activity that is prohibited by subsection (c) of this section;
- (5) the Cottage Food Operation will use only the existing, legally permitted, kitchen in the unit for production; and
- (6) the Cottage Food Operation Use will not include any use or activity that is not incidental to or incompatible with residential activities.

(b) The Zoning Clearance shall be conditioned on:

- (1) The Cottage Food Operator maintaining his or her "Class A" Cottage Food Operations registration or "Class B" Cottage Food Operations permit in good standing;
- (2) The Cottage Food Operation being in full and complete compliance with each of the requirements in Health and Safety Code section 114365; and
- (3) The Cottage Food Operations be in full and complete compliance with each of the requirements in this section.

(c) The following uses are restricted or prohibited in, on or about a dwelling unit for which a Zoning Clearance has been issued for a Cottage Food Operation Use:

- (1) *Direct Sales.* To minimize the traffic and parking impacts to Colma's residential neighborhoods, which have narrow lots normally only 33.33' wide and limited street parking, not more than two customers are allowed on the site at any given time. Direct sales may only occur between the hours of 8:00 am and 6:00 pm, Monday through Friday, and between the hours of 9:00 am and 5:00 pm, Saturday and Sunday.
- (2) *Gross Annual Sales.* No Cottage Food Operation may exceed the following in gross annual sales: \$35,000 or less in gross sales in 2013; \$45,000 or less in gross sales in 2014; and \$50,000 or less in gross sales in 2015.
- (3) *Employment.* No Operation may have more than one full-time equivalent cottage food employee, not including an immediate family member or household member of the cottage food operator. Within three months of registering with the County, the cottage food operator shall supply the Town with proof that all persons who prepare or package cottage food products at the permitted CFO have completed a food processor course

instructed by the California Department of Public Health.

(4) *Concentration of Operations.* No Cottage Food Operation shall be located closer than five hundred (500) feet to any other Cottage Food Operation due to the potential to significantly impact parking in Colma's residential neighborhoods.

(5) *Signage.* No Cottage Food Operation shall be allowed signage.

(6) *Delivery Vehicles.* Only the operator's vehicle normally used for domestic purposes shall be used for deliveries. The delivery vehicle shall not be heavier than 10,000 pounds in gross weight. The delivery vehicle shall only be loaded or unloaded between 7:00 a.m. and 7:00 p.m. Monday through Friday.

(7) *No On-site Consumption.* No food items produced on-site and sold to customers shall be consumed on the property where the sale was made, or on the sidewalk or street adjacent to the property.

(8) *Enclosure.* All activities related to the Cottage Food Operation, including sales, use must be conducted within the enclosed, livable area of the premises.

(9) *Garage.* The use of the garage or carport of a dwelling unit to store merchandise or equipment or to conduct any business activity is prohibited.

(10) *Traffic.* The Cottage Food Operator shall not conduct or permit operations in a manner that would generate traffic in greater volumes than would normally be expected in a residential neighborhood or increase parking demands on the street on which the residential unit is located.

(d) The issuance of a Zoning Clearance shall be conditioned on the applicant obtaining a Town Business Registration within ten days and maintaining the registration in effect at all times.

(e) The Zoning Administrator may, after a hearing, revoke a Zoning Clearance for a Home Office for failure to comply with any of the provisions in this ordinance. Written notice of the revocation proceeding shall be posted on the three (3) official bulletin boards of the Town of Colma and mailed to the owner of the affected property at the address for which the Zoning Clearance was issued and, if different, at the address shown on the last tax roll of San Mateo County, at least ten (10) days before the hearing. In lieu of revocation, the Zoning Administrator may attach conditions to the Zoning Clearance.

(f) A decision by the Zoning Administrator to deny an application for a Zoning Clearance for Home Office Use or to revoke a Zoning Clearance for a Home Office Use shall be in writing, explaining the reasons therefore. The applicant may appeal the decision to the City Council in accordance with the procedures set forth in section 1.02.270 of this Code.

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12; ORD. 724, 6/12/13]

[Authorities: Gov't Code §§ 51035, 65850; Health and Safety Code §§ 114365, 114365.2]

5.03.355 Home Occupation Use – Conditional Use Permit Required.

(a) Any occupant within the Town of Colma desiring to use their dwelling unit for a Home Office use or Cottage Food Operation use shall make an application to the Planning Department for a Zoning Clearance and pay the applicable processing fee. The application shall describe the business for which the home will serve as an office and the activities to be conducted at the dwelling unit. The occupant will certify in writing that the dwelling unit will not be carrying out any of the activities under Prohibited Activities for Home Offices or Cottage Food Operations enumerated above.

(b) The issuance of a Zoning Clearance shall be conditioned on the applicant obtaining a Town Business Registration within ten days and maintaining the registration in effect at all times. At the time of submission of annual Business Registration renewals, the Cottage Food Operator shall submit a copy of a valid San Mateo County Environmental County Health Department permit demonstrating permission to operate a cottage food operation. Any lapse in either Business Registration renewals or a County permit will require a new application for a Zoning Clearance once the use resumes.

(c) The Zoning Administrator may summarily suspend a Zoning Clearance for a Cottage Food Operation if the operation becomes an immediate threat to the public health or safety, or if the cottage food operator's "Class A" registration or "Class B" permit is suspended or invalid. This suspension shall remain in effect until the condition causing the suspension has been remedied. The Cottage Food Operator may, within seven days of receipt of the notice of suspension, submit a written request to the City Clerk for an informal conference with the Zoning Administrator to provide the Operator with an opportunity to present an oral request to overturn the notice of suspension. The informal conference shall be non-evidentiary, and witnesses are generally not permitted. However, the Operator may convey all information supporting his or her case without regard for the rules of evidence.

(d) The Zoning Administrator may, after a hearing, revoke a Zoning Clearance for failure to comply with any of the provisions in this ordinance. Written notice of the revocation proceeding shall be posted on the three (3) official bulletin boards of the Town of Colma and mailed to the owner of the affected property at the address for which the Zoning Clearance was issued and, if different, at the address shown on the last tax roll of San Mateo County, at least ten (10) days before the hearing. In lieu of revocation, the Zoning Administrator may attach conditions to the Zoning Clearance.

(e) A decision by the Zoning Administrator to deny an application for a Zoning Clearance, to uphold a suspension of a Zoning Clearance, or to revoke a Zoning Clearance for shall be in writing, explaining the reasons therefore. The applicant may appeal the decision to the City Council in accordance with the procedures set forth in section 1.02.270 of this Code.

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12; ORD. 724, 6/12/13]

[Authorities: Gov't Code §§ 51035, 65850]

5.03.356 Home Occupation Use or Cottage Food Operation – Conditional Use Permit Required.

A Conditional Use Permit shall be required to use any part of a dwelling unit as an office for business purposes or a Cottage Food Operation if any of the findings contained in sections

5.03.353 and 5.03.354, respectively, cannot be made, or if any proposed use or activity is prohibited by these sections. An application for a Home Occupation Use Permit or Cottage Food Operation shall be made as described in Section 5.03.241 of the Colma Municipal Code. A Use Permit may be granted by the City Council only if the findings outlined in Section 5.03.242 can be made.

[History: New, ORD. 706, 3/14/12; ORD. 713, 10/10/12; ORD. 724, 6/12/13]
[Authorities: Gov't Code §§ 51035, 65850]

5.03.357 No Net Reduction in Housing Units.

(a) It is the City Council's policy not to reduce, require or permit the reduction of the residential density for any parcel identified in the Housing Element of the Town's General Plan as suitable for housing unless the City Council makes written findings based on substantial evidence that (1) the reduction is consistent with the Town's General Plan, including the Housing Element, and (2) the remaining sites identified in the Housing Element of the Town's General Plan are suitable for housing are adequate to accommodate the jurisdiction's allocation share of the regional housing needs (RHNA).

(b) If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to accommodate the Town's allocation of the regional housing need pursuant to state law, the City Council may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

(c) A project applicant who requests in his or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the Town's allocation of the regional housing need pursuant to state law, must identify sufficient additional, adequate, and available sites with an equal or greater residential density in Colma so that there is no net loss of residential unit capacity."

[History: Ord 720, 5/8/13]

5.03.358 Regulation of the Use of Personal, Medical, and Commercial Marijuana.

(a) *Purpose.* The purpose of this Section is to regulate personal, medical, and commercial marijuana uses. Nothing in this Section shall preempt or make inapplicable any provision of state or federal law.

(b) *Personal Use.*

(1) For purposes of this subsection, personal recreational use, possession, purchase, transport, or dissemination of marijuana shall be considered unlawful in all areas of the Town to the extent it is unlawful under California law.

(2) *Outdoor Cultivation.* A person may not plant, cultivate, harvest, dry, or process marijuana plants outdoors in any zoning district of the Town. No use permit, building variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

(3) Indoor Cultivation.

(i) A person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, or inside any other enclosed structure within any zoning district of the Town. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

(ii) To the extent a complete prohibition on indoor cultivation is not permitted under California law, a person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, unless the person is issued an indoor cultivation permit by the Planning Department. A person may not plant, cultivate, harvest, dry or process marijuana plants inside any enclosed structure within any zoning district of the Town which is not either a private residence or an accessory structure to a private residence located upon the grounds of a private residence.

(iii) The Planning Department will issue application and processing guidelines for the indoor cultivation permit. No indoor cultivation permit shall be issued prior to the release of these guidelines, and no permit shall be granted which has not complied fully with the application and processing requirements.

(c) Medical Use.

(1) Cultivation of medical marijuana pursuant to Section 11362.77 of the California Health & Safety Code is subject to the cultivation requirements laid out in subsection (b) of this Section.

(2) The establishment or operation of any medical marijuana collective, cooperative, dispensary, delivery service, operator, establishment, or provider shall be considered a prohibited use in all zoning districts of the Town. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment of any collective, cooperative, dispensary, delivery service, operator, establishment, or provider in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district.

(d) Commercial Use.

(1) The establishment or operation of any business of commercial marijuana activity is prohibited. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:

(i) The transportation, delivery, storage, distribution, or sale of marijuana, marijuana products, or marijuana accessories;

- (ii) The cultivation of marijuana;
- (iii) The manufacturing or testing of marijuana, marijuana products, or marijuana accessories; or
- (iv) Any other business licensed by the state or other government entity under Division 10 of the California Business & Professions Code, as it may be amended from time to time.

(e) **Penalty for Violations.** No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided in Subchapter 1.05 of this Municipal Code and/or under state law.

[History: ORD 766, 11/9/16; ORD 768, 12/14/16]

5.03.359 Restrictions and Landscaping Along El Camino Real.

- (a) No building shall be located less than thirty (30) feet from any portion of El Camino Real to any portion of the building.
- (b) Within the required setback from El Camino Real there shall be maintained only paved walks, paved driveways, lawns and landscaping. The landscaping shall be consistent with landscaping in the surrounding areas, and shall screen parking areas from passersby on El Camino Real. The City Council may, as a condition of any Use Permit, require a landscaping plan for the area within the required setback.
- (c) The restrictions apply to property adjacent to El Camino Real the entire length of said street from the northern boundary of Colma to the Mission Road junction.

[N.B. Section 2 of Ordinance No. 270 (effective 7/9/82) provided as follows: "The requirements of this section shall not be construed to require the removal or other changes or alteration of any structure not conforming thereto as of the effective date hereof or otherwise interfere with the continuance of any non-conforming use; but shall apply to any replacement, addition, or substantial alteration of any such non-conforming structure."]

[History: formerly § 5.336.1; ORD. 270, 6/09/82; ORD. 638, 12/14/05]

5.03.360 Restrictions Applicable to Recreational Vehicles and Commercial Coaches.

No person shall occupy a recreational vehicle, a park_trailer, a truck camper, or a commercial coach, as those terms are defined in Health and Safety Code sections 18001.8, 18009.3, and 18010, in the Town of Colma except as follows:

(a) For temporary use as a field office or a business office during construction, alteration or repair of a project in the Town of Colma pursuant to a Temporary Use Permit issued under section 5.03.251 of this Code; or

(b) For use as an office in connection with a commercial use pursuant to a conditional use permit issued by the City Council under section 18300.1 of the Health and Safety Code of the State of California.

[History: formerly § 5.337; ORD. 244, 11/14/79; ORD. 280, 01/12/83; ORD. 638, 12/14/05; ORD. 720, 5/8/13]

5.03.361 Restrictions Applicable to Dumps.

This is no longer an allowable land use in the Town of Colma.

No person may hereafter use any land in the Town of Colma for disposal of solid wastes, except as follows:

(a) As to any disposal site being operated as a private dump on December 10, 1980, pursuant to a use permit from the Planning Commission of the Town of Colma, the operator of such dump or the owner of the land may use such land for disposal of solid wastes until December 31, 2010, or until termination (other than a revision, modification or amendment of an existing permit or the replacement of an existing permit with a new and different permit) of the Solid Waste Permit from the State Solid Waste Management Board, whichever date is earlier, as a non-conforming use.

(b) As to any disposal site being operated as a public dump on December 10, 1980 pursuant to a use permit from the Planning Commission of the Town of Colma, the operator of such dump, or the owner of the land, may use such land for disposal of solid wastes until December 31, 1982, or until termination (other than a revision, modification or amendment of an existing permit or the placement of an existing permit with a new and different permit) of the Solid Waste Permit from the State Solid Waste Management Board, whichever date is earlier, as a nonconforming use. The expiration date specified in this subsection (2) shall be extended until December 31, 1983, pursuant to the following procedure:

(1) The operator shall file a written application therefore with the City Clerk after January 1, 1982 and prior to July 1, 1982, specifying the reasons for the application;

(2) The City Council shall conduct a public hearing on said application within sixty (60) days thereafter and shall approve the application upon presentation of substantial evidence by the operator showing that good cause exists for such extension and that such dump is not then being operated in violation of any ordinance, law or regulation.

[History: formerly § 5.338; ORD. 257,2/11/81; ORD. 638, 12/14/05]

5.03.362 Regulations Applicable to RMU Vendors.

(a) *RMUs Prohibited.* It shall be unlawful for any person to operate, allow another to operate, or to permit the operation of an RMU on any public street; on any sidewalk; in any area of

doorway or entranceway immediately abutting thereon; on any privately owned land without the permission of the owner or lessee of the property; or on any privately-owned land which is not otherwise in compliance with local zoning and building requirements.

(b) *Zoning Clearance Required.* It shall be unlawful for any person to operate, allow another to operate, or to permit the operation of an RMU on any privately owned property, outside of a building, in the Town of Colma without first obtaining a Zoning Clearance from the City Planner. Application for zoning clearance shall be made to the City Planner and shall include the following:

- (1) Name, address and telephone number of the RMU vendor.
- (2) An accurately drawn plan showing the proposed RMU location.
- (3) A drawing or photograph of the proposed RMU.
- (4) For RMU vendors not affiliated with the owner or lessee:
 - (i) Written permission of the owner or lessee of the property.
 - (ii) Verification that the vendor's State Equalization number lists the property address as point of sale.
 - (iii) For RMU vendors operating a food establishment: Verification of Health Department permit.
 - (iv) A zoning clearance fee, which shall be established from time to time by the City Council of the Town of Colma by resolution.

The City Planner shall coordinate the review of applications for zoning clearance and shall issue a clearance certificate to the applicant upon verification of the application materials, verification that the owner or lessee is operating in conformance with local zoning and building requirements and upon finding that the proposed location and design of the RMU unit will not hinder vehicular or pedestrian movement and will not violate any permit condition of the property owner or lessee.

(c) *Display of Clearance and Health Department Permit.* A countersigned copy of the zoning clearance must be displayed at the RMU. For food establishments, the vendor must display a valid Health Department permit.

(d) *Business License Required.* A separate business license is required for RMU vendors not affiliated with the property owner or lessee.

(e) *Non-transferability.* Zoning clearance shall be limited to a specific vendor and shall not be transferable to any other person or entity.

History: formerly § 5.339, ORD. 506, 3/12/97; ORD. 524, 1/14/98; ORD. 638, 12/14/05]

XXVII. Solar: Small Residential Rooftop Solar Energy Systems

5.03.420 Applicability and Purpose.

(a) This Subchapter applies to the permitting of all small residential rooftop solar energy systems in the Town. The purpose of this Section is to create an expedited, streamlined solar permitting process that complies with the Solar Rights Act, as amended by AB 2188 (Chapter 521, Statutes 2014), to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This Subchapter encourages the use of small residential rooftop solar energy systems by removing unreasonable barriers, minimizing costs to property owners and the Town, and expanding the ability of property owners to install small rooftop solar energy systems. This Subchapter allows the Town to achieve these goals while protecting the public health and safety.

(b) For rooftop solar systems mounted on non-residential buildings, refer to Section 5.04.120(i)4.j.

[History: Ord. 759, 10/14/15]

5.03.421 Definitions.

Definitions associated with Solar: Small Residential Rooftop Solar Energy Systems may be found in section 5.03.030, Definitions.

5.03.422 Basic Requirements.

(a) A solar energy system that qualifies as a small residential rooftop solar energy system shall be processed in accordance with this Subchapter.

(b) Applications for small residential rooftop solar energy systems shall require a building permit or administrative use permit as set forth in this Subchapter.

(c) A small residential rooftop solar energy system shall meet applicable health and safety standards and requirements imposed by the state and the Town, and the Colma Fire Protection District.

(d) The Building Official shall, prior to September 30, 2015, adopt an administrative, nondiscretionary expedited review process for small residential rooftop solar energy systems, which shall include standard plan(s) and checklist(s). The checklist(s) shall set forth all requirements with which small residential rooftop solar energy systems must comply with to be eligible for expedited review.

(e) The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the *California Solar Permitting Guidebook* adopted by the Governor’s Office of Planning and Research and may be amended as otherwise necessary or advisable.

[History: Ord. 759, 10/14/15]

5.03.423 Applicant Obligations.

- (a) Prior to submitting an application, the applicant shall:
 - (1) Verify, to the applicant's reasonable satisfaction, through the use of standard engineering evaluation techniques that the support structure for the small residential rooftop solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and
 - (2) At the applicant's cost, verify to the applicant's reasonable satisfaction, using standard electrical inspection techniques that the existing electrical system including existing line, load, ground and bonding wiring as well as main panel and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new photovoltaic electrical loads.

[History: Ord. 759, 10/14/15]

5.03.424 Electronic Processing.

- (a) All documents required for the submission of an expedited small residential rooftop solar energy system application shall be made available on a publicly accessible Town website.
- (b) Electronic submittal of the required permit application and documents by electronic means shall be made available to all small residential rooftop solar energy system permit applicants. The Town's website shall specify the permitted method of electronic document submission.
- (c) An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature in a manner specified on the Town's website.

[History: Ord. 759, 10/14/15]

5.03.425 Application Review.

- (a) An application that the Building Official determines satisfies the information requirements contained in the Town's checklist(s) for expedited small residential rooftop solar system processing, including complete supporting documents, shall be deemed complete.
- (b) If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.
- (c) After the Building Official deems an application complete, he or she shall review the application to determine whether the application meets local, state, and federal health and safety requirements.
- (d) Unless the Building Official determines a use permit is warranted, the Building Official shall issue a building permit or other nondiscretionary permit within a reasonable period of time after receipt of a complete application that meets the requirements of the approved checklist, standard plan and this Subchapter.

(e) The Building Official may require an applicant to apply for a use permit if he or she finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. This decision may be appealed to the City Council.

[History: Ord. 759, 10/14/15]

5.03.426 Administrative Use Permit.

(a) If an administrative use permit is required, it shall be processed in accordance with this Section and the administrative use permit requirements contained in the Town's Zoning Ordinance.

(b) The administrative use permit may be denied if written findings are made, based upon substantive evidence in the record, that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact.

(c) Any condition imposed on an administrative use permit shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

(d) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the Town on another similarly situated application in a prior successful application for a permit. The Town shall use its best efforts to ensure that the selected method, condition, or mitigation does not significantly increase the cost of the system or decrease its efficiency or specified performance in excess of the following:

(1) For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.

(2) For Photovoltaic Systems: an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

[History: Ord. 759, 10/14/15]

5.03.427 Inspections.

(a) Only one inspection shall be required and performed by the Town for small residential rooftop solar energy systems eligible for expedited review. The inspection shall be done in a timely manner. A separate fire safety inspection may be performed by the Colma Fire Protection District, as determined by the Building Official.

(b) If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this section.

[History: Ord. 759, 10/14/15]

5.03.428 Exemptions.

Roof- mounted solar panels that do not extend more than three (3) feet above the roofline of the structure on which they are mounted are exempt from the requirements of this Subchapter.

XXVIII. Historic Design Review

5.03.430 Purpose.

The purpose of this Chapter is to provide for the health, safety and general welfare through preservation of historic and cultural resources. The intent is to provide for the review, evaluation, enhancement, protection and preservation of natural phenomena, structures, site and areas that possess unique character, special architectural appearance, historical value or which generate special aesthetic and cultural interest. The quality of life within the community will be enhanced through the development and maintenance of appropriate settings and environments of historic and cultural resources. This Chapter also establishes procedures for the comprehensive review of development to implement the requirements of the Historical Resources Element goals and policies of the General Plan.

5.03.431 Applicability of Historic Design Review.

A. When required. All projects that require a land use or building permit or will affect the exterior appearance of any building or property designated as a historic resource shall be subject to Historic Design Review in compliance with this Chapter.

B. Building permits. No building permit shall be issued for any project until the project has been evaluated through the Historic Design Review process, planning approval has been granted, and the appropriate land use permit has been issued.

5.03.432 Definitions.

Definitions associated with Historic Design Review may be found in section 5.03.030, Definitions.

5.03.433 Historic Design Review Procedures.

A. Commencement of review. The Historic Design Review process is initiated when the City Planner receives a complete application. The application package shall include all plans, elevations, specifications, sample materials, signage, etc. as specified in the application and any additional information required by the City Planner in order to conduct a thorough review of the proposed project. The materials in the application should be of presentation quality.

B. Review with other permits. Historic Design Review for projects that require the approval of a discretionary permit (e.g., Conditional Use Permit, Variance, etc.) shall occur concurrently with the review of the discretionary permit application, and the final determination shall be made by the highest level of review authority acting on the project application. The City Planner shall prepare a report for the review authority outlining the findings and any conditions relating to the

Historic Design Review prior to the review authority's consideration of the project. The report containing findings and any conditions shall also be forwarded to the applicant prior to consideration by the review authority.

The Historic Design Review application shall be forwarded to the Planning Division and Colma Historical Association for review. The Planning Division and Colma Historical Association shall review the application in accordance with the requirements of this Chapter and Section 5.03.150, Design Review Combining District, and forward a recommendation of approval, conditional approval, or denial to the City Planner. The City Planner shall review the land use permit within the time limits imposed by the Zoning Ordinance.

D. Factors to be considered. In conducting a Historic Design Review for a particular project, the City Planner shall consider the location, design, site plan configuration and the overall effect of the proposed project upon surrounding properties in general. Historic Design Review shall be conducted by comparing the proposed project to applicable General Plan policies, adopted development standards, Design Review Combining District, and other applicable ordinances of the City.

E. Action, conditions. The City Planner may approve or recommend approval in accordance with Section 5.03.434, Findings and Decision, and prepare a Notice of Action. The City Planner may impose conditions to ensure that the project would meet all of the required findings. Conditions may relate to both on- and off-site improvements that are necessary to mitigate project-related impacts, and to carry out the purpose and requirements of the respective zoning district.

F. Revised plans. Where conditions are imposed that may substantially alter a proposed project, the applicant may be requested to submit revised plans at the discretion of the City Planner.

5.03.434 Findings and Decision.

A. Approval. The City Planner or review authority may grant an approval with or without conditions, only if all of the following findings can be made:

1. The project, including its character, scale and quality of design, is consistent with the purpose of this Chapter, and all applicable development standards;
2. With regard to a designated historic and/or cultural resource, the proposed work will neither adversely affect the significant architectural features of the designated historic and/or cultural resource nor adversely affect the character of historical, architectural, or aesthetic interest or value of the designated resource and its site;
3. In case of construction of a new improvement, addition, building, or structure upon a designated historic and/or cultural resource site, the exterior of such improvements will not adversely affect and will be compatible with the use and exterior of existing designated historic resources, improvements, buildings, natural features, and structures on said site.
4. The proposed project is consistent with the General Plan.

B. Denial. A denial shall be accompanied by a statement of the reasons for denial. The City Planner shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the City Planner to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the City Planner. The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendations of the City Planner.

5.03.435 Conformance to Plans.

A. All work performed under a Building Permit for which project drawings and plans received an approval shall conform to the approved drawings and plans and any conditions of approval.

B. Any modifications to or deviations from the drawings and plans approved under this Chapter shall be approved by the City Planner. In the case of a discretionary permit, the City Planner may approve minor modifications but the original review authority shall review and approve any major modifications.

XXIX. Tree Cutting and Removal

5.03.500 Purpose and Findings.

The General Plan of the Town of Colma recognizes the contribution of both trees and views to the character and beauty of the Town. Removal of trees without reasonable care would destroy the natural beauty of certain areas, contribute to erosion and increase cost of drainage systems, reduce protection against wind, and impair residential privacy and quiet. Guidelines are needed to protect both trees and views and to ensure that access to public property and public rights-of-way, including sidewalks, by persons with disabilities is not constrained or inhibited. For such reasons, the City Council enacts these regulations to promote the public health, safety and welfare.

[*History*: formerly § 5.601; ORD. 292, 10/12/83; ORD. 303, 9/12/84; ORD. 479, 4/12/95; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

5.03.501 Definitions.

Person: Any individual, firm, partnership, corporation or other legal entity.

Tree: As used in this subchapter, a "tree" means any live woody plant having a single perennial stem of 12 inches or more in diameter or multi-stemmed perennial plant having an aggregate diameter of 40 inches or more measured 4 feet above the natural grade. "Tree" shall also include any woody plant that has been placed by the Town, or required by permit of the Town, that has not yet obtained the stated size.

Alteration: Any action which would significantly damage a tree, whether (1) by cutting of its trunk or branches, or (2) by filling or surfacing or changing the drainage of the soil around the tree, or (3) by other damaging acts; this definition excludes routine pruning and shaping, removal of dead wood, or other maintenance of a tree to improve its health, facilitate its growth, or maintain its configuration to protect an existing view.

Undeveloped Parcel: Any lot or parcel which may be subdivided or divided under applicable regulations of the Town, and any lot or parcel on which a permanent structure had not been built; any other lot or parcel is a "developed property" for purposes of this ordinance.

[*History:* formerly § 5.602; ORD. 292, 10/12/83; ORD. 303, 9/12/84; ORD. 479, 4/12/95
ORD. 638, 12/14/05]

5.03.502 Removal or Alteration of Trees Without a Permit Prohibited.

It shall be unlawful for any person to remove or alter any tree on private property in the Town without a permit issued as provided herein, except as provided in Section 5.06.060.

[*History:* formerly § 5.603; ORD. 292, 10/12/83; ORD. 303, 9/12/84; ORD. 479, 4/12/95
ORD. 638, 12/14/05]

5.03.503 Decision Making Body.

The Zoning Administrator shall approve, conditionally approve, or deny the application for a permit to cut down, remove, or move any indigenous tree or trees.

[*History:* formerly § 5.604; ORD. 292, 10/12/83; ORD. 303, 9/12/84; ORD. 479, 4/12/95;
ORD. 638, 12/14/05; ORD. 706, 3/14/12]

5.03.504 Permit Procedures.

(a) An application for a tree removal permit shall be made on the Town of Colma project application form and be submitted to the City Planner or designee, along with the information required in this ordinance and the application fee, which shall be established from time to time by the City Council of the Town of Colma by resolution.

(b) The application shall identify the property on which the tree is located, provide a perimeter outline of any existing or proposed building on the property, specify the location of the tree within an accuracy of one foot, state the size and species of the tree, and furnish a brief statement of the reason for the request, along with an arborist evaluation prepared by a licensed and/or certified arborist for the tree(s) desired for removal, and such other information as the City Planner or designee may require.

i. In the case of an application for a use permit or for tentative approval of the division or subdivision of property, the information required under this section shall be part of that application.

ii. In the case of an application for removal of more than five trees from the same property, or an application for removal of trees that can be seen from a main public road, the applicant must also provide the City Planner or designee with a revegetation plan.

(c) The City Planner or designee shall review the application for completeness and shall notify the applicant when the application is complete.

(d) The City Planner or designee shall inspect the tree and the site and shall consider the following factors in determining whether to issue or to deny a permit:

- (1) The conditions of the trees with respect to disease, hazard proximity to existing or proposed structures, or interference with utility services;
- (2) The necessity of removal or alteration of the tree in order to improve the property;
- (3) The topography of the land, and the effect of tree removal or alteration on protection from wind, soil erosion or increased flow of surface water;
- (4) The protection of privacy for the property on which the tree is located or for adjacent properties;
- (5) The number of trees in the neighborhood, and the effect of tree removal or alteration on property values in and characteristic of the neighborhood.

(e) The City Planner or designee shall issue a tree removal permit unless the Planner or designee finds that the tree affected is of such size, type, condition and location that its removal or alteration would destroy the natural beauty of certain areas, contribute to erosion, increase the cost of drainage systems, reduce protection against wind, or significantly impair the privacy and quiet of a residential area.

(f) The City Planner or designee may attach such conditions to the permit as are reasonable and necessary to accomplish the purposes of this ordinance, including protection of the tree by grading, drainage and cut and fill restrictions, or substitution using a minimum 15-gallon size tree or shrub.

(g) Where the proposed tree removal would destroy the natural beauty of certain areas, contribute to erosion and increase cost of drainage systems, reduce protection against wind, or significantly impair the privacy and quiet of a residential area, the City Planner or designee may issue a tree removal permit on such conditions as the Planner or designee may deem appropriate, including replacement or substitution using specimen size trees.

(h) Replacement of trees that are removed shall be done on the same property as the removal unless the City Planner or designee determines that an off-site location better serves the Town's objectives. Replacement trees shall be a 3:1 replanting ratio, 15-gallon size, and native species.

(i) Each tree to be removed or altered shall be physically marked with red tape. No tree may be removed or altered on any undeveloped parcel on Saturdays, Sundays or holidays or at any time except during the regular working hours (8:00 a.m. to 5:00 p.m.) Monday through Friday.

(j) The applicant shall post at once a copy of the permit at the property in a location where it may be read from the public street or sidewalk.

(k) The provisions of this paragraph 5.605(h) shall apply to the removal of trees in connection with the grant of a use permit or approval of the subdivision or division of lands. The City Planner or designee shall prepare an evaluation on the trees and views based on the developer's plans and site inspection of the land to be subdivided or divided. Such evaluation shall be maintained in a permanent Town permit file. Final approval of the project plan by the City Council shall

constitute a permit to remove or alter the specified tree. No other tree removal or alteration on the property subsequent to such approval of map may be done except pursuant to a permit issued under subparagraph (a) of this section. A notice that identifies the approved subdivision or division of land map shall be posted at the property.

[*History:* formerly § 5.605, ORD. 292, 10/12/83; ORD. 303, 9/12/84; ORD. 479, 4/12/95; ORD. 524, 1/14/98; ORD. 638, 12/14/05]

5.03.505 Exceptions.

(a) If personal injury or substantial property damage is imminently threatened, or access to public property or public rights-of-way by disabled persons prevented, the Chief of Police, City Manager, or City Planner may authorize the removal of a tree without compliance with other provisions of this ordinance.

(b) The provision of this article shall not apply to any project or activity being carried out by the Town of Colma.

(c) The provisions of this article shall not apply to the removal or pruning of any tree, other than those required as part of an approved landscape plan, from any developed, residentially zoned land.

[*History:* formerly § 5.606; ORD. 292, 10/12/83; ORD. 303, 9/12/84; ORD. 479, 4/12/95; ORD. 502, 10/9/96; ORD. 638, 12/14/05; ORD. 689, 3/10/10]

5.03.506 Appeal.

A decision of the City Planner or designee to grant or deny a Tree Removal Permit may be appealed by any interested party to the city council in accordance with the procedures set forth in section 1.02.140 of the Colma Municipal Code.

[*History:* formerly § 5.607, ORD. 292, 10/12/83; ORD. 303, 9/12/84; ORD. 479, 4/12/95; ORD. 521, 12/10/97; ORD. 638, 12/14/05]

5.03.507 Penalties.

Any person violating any of the provisions of this subchapter shall be guilty of a misdemeanor, which shall be punishable as set forth in section 1.05.010 et seq.

[*History:* formerly § 5.608; ORD. 292, 10/12/83; ORD. 303, 9/12/84; ORD. 479, 4/12/95; ORD. 638, 12/14/05, ORD. 643, 4/12/06]

XXXI. Public Trees

5.03.600 Purpose.

The General Plan of the Town of Colma recognizes the contribution of trees to the character and beauty of the Town. It is in the best interest of the Town and its residents that trees on public property are properly maintained. This subchapter is adopted for the purposes of establishing rules

and regulations relating to the planting, care, maintenance, removal, and replacement of such trees.

[History: Adopted by Ord.783, 10/24/18]

5.03.601 Definitions.

Director: Public Works Director and his or her designee.

Maintenance: Acts to promote the life, growth, health, or beauty of trees, shrubs, or plants, including, but not limited to, pruning, trimming, topping, root pruning, spraying, mulching, fertilizing, cultivating, supporting, and treating for disease or injury.

Owner: The fee owner of real property and the person or persons in possession of the real property.

Person: Any person, firm, partnership, association, corporation, company, or organization of any kind.

Public Street: Road or street under the jurisdiction of and maintained by a public authority, such as the Town of Colma, and open to public vehicle, bicycle, pedestrian or other travel.

Public Property: Any property under the jurisdiction of and maintained by a public authority, such as the Town of Colma, and open to public use.

Town Tree: Any tree growing on any Town-owned property, including any tree located on an easement dedicated to the Town where the Town has affirmatively accepted responsibility to maintain such tree(s).

[History: Adopted by Ord.783, 10/24/18]

5.03.602 Administration.

The Director shall have authority to administer the provisions of this subchapter regarding trees planted or growing in public areas within the Town.

[History: Adopted by Ord.783, 10/24/18]

5.03.603 Interference with town employees, contractors or representatives.

No person shall interfere with or cause or permit any person to interfere with Town employees, contractors or representatives who are engaged in the planting, preserving, maintaining, treating or removing of any tree or plant or related work in the Town.

[History: Adopted by Ord.783, 10/24/18]

5.03.604 Public Tree Care.

(a) It shall be unlawful for any person to plant, remove or alter any tree on public property in

the Town without authorization from the Director, except as provided in Section 5.20.070.

(b) Public trees may be removed with approval from the Director in the following circumstances:

- a. If the tree is damaged or destroyed.
- b. To protect property or other trees, shrubs or plants from damage or injurious infection.
- c. In the interest of public safety.

(c) The Director shall review and authorize the species, location and spacing of all plantings on public streets and public property.

[History: Adopted by Ord.783, 10/24/18]

5.03.605 Destruction of Public Trees Unlawful.

No person shall:

- (a) Damage, cut, injure, deface, mutilate, kill or destroy a Town tree.
- (b) Cause or permit a fire to burn where the fire or the heat will injure a Town tree.
- (c) Place, apply or attach to a Town tree or to the guard or stake intended for the protection of a Town tree any wire, rope (other than one used to support a young or broken tree), sign, paint or other substance that may serve to damage or alter the tree.

[History: Adopted by Ord.783, 10/24/18]

5.03.606 Exceptions.

(a) It is the responsibility of the utility companies to maintain trees that interfere with utility wires in accordance with State orders for clearance of trees from electrical utilities. Utility companies performing tree maintenance work done under State orders are exempt from obtaining approval from the Director; provided, however, any such utility company shall provide evidence of existing State orders and notify the Director of when such maintenance will occur at least two weeks prior to undertaking the work. Each utility company doing work in the Town is required to secure an annual encroachment permit.

(b) If emergency conditions such as personal injury or substantial property damage is imminently threatened, or access to public property or public rights-of-way by disabled persons prevented, the Chief of Police, City Manager, or City Planner may authorize the removal of a tree without compliance with other provisions of this ordinance.

[History: Adopted by Ord.783, 10/24/18]

5.03.608 Town Tree Master Plan.

(a) The Town shall inventory and develop a plan for all Town trees and planting areas in public areas of the Town. All town trees shall be tagged and logged into the Town's Geographic Information System database.

(b) In accordance with the plan, the Director shall proceed each year to plant trees or replace trees to the extent of such funds as may be allocated by the City Council for that purpose.

(c) Where the condition of a tree, or the condition of public improvements adjacent to a tree make replacement of the tree necessary or desirable, the Director is authorized to remove such tree and replace it with one in accordance with the Town tree master plan.

(d) In accordance with the plan, the Director shall establish and implement a five-year schedule for regular pruning of Town trees maintained by the Town; the allocation of staff resources, and for establishing a budget for these activities.

[History: Adopted by Ord.783, 10/24/18]

5.03.608 Master Tree List.

(a) The Director may determine the types and species of trees suitable and desirable for planting and the areas in which and conditions under which such trees shall be planted in public property in the Town. The suitable and desirable plantings that are approved to be planted in Town shall be included in a "master tree list" and it shall be filed in the office of the Town Clerk. The Town may revise or change the master tree list subject to the approval of the Director.

(b) Each tree planted in a public area must be on the master tree list, unless approval is obtained from the Director to plant a tree not on the list.

(c) The following list is the approved master tree list of the types and species of trees suitable and desirable for planting within Public Property.

BOTANICAL NAME	COMMON NAME
Arbutus Marina	Strawberry Tree
Metodideros excelsus	New Zealand Christmas Tree
Pyrus kawakamii	Evergreen Pear
Pyrus calleryana	Ornamental Pear
Tristania Conferta (Lophostemon)	Brisbane Box
Tristaniopsis Laurina "Elegant"	Water Gum

[History: Adopted by Ord.783, 10/24/18]

5.03.609 Prohibited Trees.

The Town has determined that certain species of trees are not desirable due to their susceptibility to disease, short life span, mature size, maintenance schedule, and/or likelihood of damaging

existing improvements. The following list is the list of trees that should not be authorized in Town without additional consideration.

BOTANICAL NAME	COMMON NAME
Ulmus americana	American Elm
Acer saccharinum	Silver Maple
Salix babylonica	Weeping Willow
Pinus radiata	Monterey Pine
Pseudotsuga menziesii	Douglas Fir
Acacia mearnsii	Black Acacia Tree
Eucalypteae	Eucalyptus Tree

[History: Adopted by Ord.783, 10/24/18]

XXXII. Reasonable Accommodations in Housing

5.03.700 Purpose.

It is the policy of the Town of Colma to provide reasonable accommodations for persons with disabilities seeking fair and equal access to housing in the application of its zoning laws, building codes, and other land use regulations, policies and procedures. The purpose of this subchapter is to provide a process for making a request for reasonable accommodation.

[History: ORD. 652, 1/10/07, ORD. 688, 3/10/10]

5.03.701 Applicability.

This subchapter applies to persons with disabilities as defined under the Americans with Disabilities Act of 1990 ("ADA"); the Federal Fair Housing Act; the California Fair Employment and Housing Act; and Health and Safety Code sections 19955 *et seq.* (the "Acts").

- (a) *Authorized Applicants.* A request for reasonable accommodation may be made by any persons with a disability, their representative or any entity, when the application of a zoning law, building code or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has, or is regarded as or has a record of having, a physical or mental impairment that limits or substantially limits one or more major life activities within the meaning of the Acts.
- (b) *Elimination of Regulatory Barriers.* A request for reasonable accommodation may include a modification or exception to Town rules, policies and procedures, or to the standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice. A request for reasonable accommodation shall comply with Section 5.15.030 of this subchapter.

[History: ORD. 652, 1/10/07, ORD. 688, 3/10/10]

5.03.702 Application Requirements.

- (a) *Application.* A request for reasonable accommodation sought to obtain equal access to housing or the use of land within the Town of Colma by a qualified individual with a disability shall be initiated by submitting to the City Planner a completed application form, signed by the property owner or authorized agent, containing the following information:
- (1) The applicant's name, address and telephone number;
 - (2) Address of the property for which the request is being made;
 - (3) The current use of the property;
 - (4) The basis for the claim that the individual is considered disabled under the Acts;
 - (5) The code provision or other Town regulation or policy from which accommodation is being requested; and
 - (6) An explanation of why the accommodation is necessary to make the specific property accessible to the individual.
 - (7) There shall be no fees required for a request for reasonable accommodation.
- (b) *Review with Other Planning Applications.* If the request for reasonable accommodation is being made in connection with a project or other land use that also requires some other planning approval (such as a use permit, variance, design review permit, zone change, general plan amendment or subdivision), then the applicant shall file the application containing the information required by subsection (a) with the City Planner together for concurrent with the application(s) for approval.

[History: Ord. 652, 1/10/07; ORD. 388, 3/10/10; ORD. 693, 9/8/10]

5.03.703 Consideration of Request.

- (a) *Consideration of Request.* In considering whether to grant or deny a request for reasonable accommodation, the City Planner shall consider all resources available to the Town for use in the funding and operation of the service, program or activity.
- (b) *Findings.* The written decision to grant or deny a request for reasonable accommodation shall be based on consideration of the factors set forth below:
- (1) Whether the housing, which is the subject of the request, will be used by an individual with a disability under the Acts.
 - (2) Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
 - (3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the Town.

- (4) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of the Town program or law, including, but not limited to, land use and zoning. If the Town determines that a requested accommodation would result in a fundamental alteration or an undue financial or administrative burden, the Town may take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive equal access to the benefits or services provided by the Town.

[*History:* Ord. 652, 1/10/07; ORD. 688, 3/10/10; ORD. 693, 9/8/10]

5.03.704 Notice of Decision.

A written notice of decision either granting or denying the request, including any reasonable conditions, shall be issued to the applicant/property owner within 30 days of the date of receipt of a completed application. The notice of decision shall contain the factual findings, conclusions and reasons for the decision. A decision to deny a request shall include the reasons why providing the requested accommodation would fundamentally alter the nature of the service or program in question or would result in an undue financial or administrative burden.

[*History:* Ord. 688, 3/10/10; ORD. 963, 9/8/10; ORD. 739, 3/11/15]

Zoning Code Update Outline

The chapters, subchapters and sections of the Colma Municipal Code shown in the following table under the column headed "Current" are re-numbered as shown under the column headed "New" in the following table, and the title of each section is amended as shown under the column headed "Title" in the following table. An asterisk (*) after the title represents a new subchapter or section of the Zoning Code.

Table 1: Re-numbering Table

<i>Current</i>	<i>New</i>	<i>Title</i>
5.03	5.03	Zoning
5.03.010	5.03.010	Title
5.03.020	5.03.020	Purpose
	5.03.030	Definitions
5.03.030	5.03.040	General Prohibition
5.03.040	5.03.050	Zones and Boundaries Thereof
5.03.050	5.03.060	Zone Boundaries
		- Zoning Map
		- Table 1: Residential Zone Development Standards
		- Table 2: Non-Residential Zone Development Standards
		- Table 3: Permitted Land Use Table
5.03.060		I. "G" Zone
5.03.060	5.03.070	Regulations Established
5.03.060	5.03.071	Permitted Uses
5.03.060	5.03.072	"G" Golf and Cemetery Zone Development Standards
5.03.070		II. "R" Zone
	5.03.080	Regulations Established*
5.03.070	5.03.081	Permitted Uses
5.03.260	5.03.082	"R" Residential Zone Development Standards
5.03.080		III. "R-S" Zone Sterling Parking Neighborhood Zone
	5.03.090	Regulations Established*
5.03.080	5.03.091	Permitted Uses
5.03.260	5.03.092	"R-S" Sterling Park Neighborhood Zone Development
5.19		IV. Accessory Dwelling Units (ADUs)
	5.03.100	Purpose*
5.19.030	5.03.101	Definitions
5.19.030	5.03.102	Effect of Conforming Accessory Dwelling Units
5.19.040	5.03.103	Approvals
5.19.050	5.03.104	General ADU and JADU Requirements
5.19.060	5.03.105	Specific ADU Requirements
5.19.070	5.03.106	Deed Restrictions
5.19.080	5.03.107	Fees
5.19.090	5.03.108	Nonconforming ADUs and Discretionary Approvals
5.03.280		VI. Regulation of Multi-Family Uses in Single Family Residential Zones
	5.03.120	Purpose*

5.03.090		VII. "C" Commercial Zone
	5.03.130	Regulations Established
	5.03.131	Purpose*
5.03.090	5.03.132	Permitted Uses
5.03.090	5.03.090	"C" Commercial Zone Development Standards
		VIII. "COD" Commercial Overlay Zone*
	5.03.140	Regulations*
	5.03.141	Purpose*
5.03.300		IX. "DR" Design Review Combining Zone
	5.03.150	Regulations Established*
	5.03.150	- DR Design Review Combining Zone Map
	5.03.151	Purpose*
5.03.300	5.03.152	"DR" Design Review Combining District Development Standards and Procedures
5.03.300	5.03.153	Restrictions and Procedures Applicable to the "DR" Design Review Combining Zone
	5.03.154	Objective Design Standards (ODDS) for PD & C Zone*
	5.03.155	Manufactured Single Residential Objective Design Standards*
	5.03.156	Accessory Dwelling Units (ADUs) Objective Design Standards*
5.03.310		X. "P" Public Zone
	5.03.160	Regulations Established*
	5.03.161	Purpose*
5.03.310	5.03.162	Permitted Uses
		"P" Public Zone Development Standards
5.03.330		XI. "E" Executive, Administrative Zone
	5.03.170	Regulations Established*
5.03.330	5.03.171	Permitted Uses
5.03.330	5.03.172	"E" Executive, Administrative Zone Development Standards
5.03.130		XII. "PD" Planned Development District Zone
	5.03.180	Regulations Established*
	5.03.181	Purpose*
5.03.130	5.03.182	Permitted Uses
5.03.140	5.03.183	Establishment of PD – Planned Development Districts
		- PD Planned Development Districts Map
5.03.150	5.03.184	Conceptual Development Plan Required
5.03.160	5.03.185	Conditional Uses
5.03.170	5.03.186	Detailed Development Plan
5.03.180	5.03.187	"PD" Design Standards
5.03.190	5.03.188	"PD" Open Space and Density
5.03.200	5.03.189	"PD" Amendment of Development Plan
5.03.210	5.03.190	"PD" Development Schedule
5.03.220	5.03.191	"PD" Revocation of Use Permit
		XIII. "HEO" Housing Element Overlay Zone District*
	5.03.195	Purpose*
		- "HEO" Housing Element Overlay Zone District Map

	5.03.196	No Parking Standards Required for HEO Zone District*
		XIV. Housing Density Bonus*
	5.03.197	Purpose*
	5.03.198	Density Bonus & Affordable Housing Incentive*
		XV. Inclusionary and Affordable Housing
5.12.010	5.03.199	In-Lieu Fees and Impact Fees
		- Table 5: Affordable Housing Impact Fee
5.12.020	5.03.200	Housing Fund
5.12.030	5.03.201	Purposes and Uses of Housing Fund
	5.03.202	Affordability Requirement for Residential Development*
5.12.070	5.03.203	Exemptions
5.12.080	5.03.204	Basic Requirements for Inclusionary Units
5.12.100	5.03.205	Alternative Equivalent Actions
5.12.110	5.03.206	Compliance Procedures
5.12.140	5.03.207	Eligibility for Inclusionary Units
5.12.150	5.03.208	Owner Occupied Units
5.12.160	5.03.209	Rental Units
5.12.190	5.03.210	Delegation of Authority
	5.03.211	Minimum Requirements
5.12.210	5.03.212	Adjustments, Waivers*
5.12.220	5.03.213	Enforcement Provisions
		XVI. "F" Flood Zone
5.03.320	5.03.215	Regulations Established*
	5.03.216	Purpose*
5.03.320	5.03.217	Restrictions Applicable to the "F" Zone
5.03.340		XVII. "T" Transit Zone
5.03.340	5.03.218	Regulations Established
5.03.340	5.03.219	"T" Transit Zone Development Standards
5.03.350		XVIII. Development Standards Applicable to all Zones*
		XIX. Off-Street Parking and Loading Regulations*
	5.03.230	Purpose*
	5.03.231	Applicability*
	5.03.232	Parking Standards*
		- Table 4: Parking Standards*
	5.03.233	Calculation of Parking*
	5.03.234	Location of Required Parking Standard*
5.03.400		IXX. Conditional Uses
	5.03.240	Purpose*
5.03.400	5.03.241	Application for Use Permit
5.03.410	5.03.242	Standards for Granting Use Permit
5.03.420	5.03.243	Effective Date of Decision to Grant or Deny Use Permit; Reconsideration
5.03.422	5.03.244	Lapse of Use Permit; Extension
5.03.424	5.03.245	Duration of Use Permit
5.03.430	5.03.246	Revocation of Use Permit
5.03.610		XX. Temporary Use Permits
	5.03.250	Purpose*

5.03.620	5.03.251	Permit Required; Effective Date
5.03.630	5.03.252	Application Process; No Public Hearing
5.03.640	5.03.252	Tier 1 Temporary Uses
5.03.650	5.03.254	Tier 2 Temporary Uses
5.03.660	5.03.255	Required Findings
5.03.670	5.03.256	Conditions of Approval
5.03.680	5.03.257	Term; Extension
5.03.690	5.03.258	Revocation
5.03.700	5.03.259	Appeal
5.03.710	5.03.260	Posting
5.03.450		XXI. Variance
	5.03.270	Purpose*
5.03.450	5.03.271	Application for Variance
5.03.460	5.03.272	Standards for Granting a Variance
5.03.470	5.03.273	Effective Date of Variance
5.03.480		XXII. Amendment
5.03.480	5.03.281	Purpose*
5.03.490	5.03.282	Standards for Adopting Amendments to Zoning Ordinance
5.03.500	5.03.283	Compliance
5.03.510	5.03.284	Interpretation, Purpose, Conflict
5.03.520		XXIII. Administrative Permits
	5.03.290	Purpose*
		XXIV. Accessory Buildings*
	5.03.300	Purpose*
5.03.440		XXV. Non-Conforming Building and Uses
	5.03.310	Purpose*
		XXVI. Other Uses*
5.03.230	5.03.350	Minor, Short-Term, and Temporary Uses
5.03.232	5.03.351	Home Office Use – Purpose and Recitals
5.03.233	5.03.352	Home Office Use – Scope and Prohibition
5.03.234	5.03.353	Home Office Use – Zoning Clearance; Prohibited Activities
5.03.235	5.03.354	Home Office Use – Zoning Clearance Process
5.03.236	5.03.355	Home Occupation Use – Conditional Use Permit Required
5.03.237	5.03.356	Home Occupation Use or Cottage Food Operation – Conditional Use Permit Required
5.03.345	5.03.357	No Net Reduction in Housing Units
5.03.355	5.03.358	Regulations of Use of Personal, Medical, and Commercial Marijuana
5.03.360	5.03.359	Restrictions and Landscaping Along El Camino Real
5.03.370	5.03.360	Restrictions Applicable to Recreational Vehicles and Commercial Coaches
5.03.380	5.03.361	Restrictions Applicable to Dumps
5.03.390	5.03.362	Restrictions Applicable to RMU Vendors
5.05		XXVII. Solar: Small Residential Rooftop Solar
5.05.010	5.03.420	Applicability and Purpose
5.05.020	5.03.421	Definitions
5.05.030	5.03.422	Basic Requirements

5.05.040	5.03.423	Applicant Obligations
5.05.050	5.03.424	Electronic Processing
5.05.060	5.03.425	Application Review
5.05.070	5.03.426	Administrative Use Permit
5.05.080	5.03.427	Inspections
	5.03.428	Exempt*
		XXVIII. Historic Design Review*
	5.03.430	Purpose*
	5.03.431	Applicability of Historic Design Review*
	5.03.432	Definitions*
	5.03.433	Historic Design Review Procedures*
	5.03.434	Findings and Decision*
	5.03.435	Conformance to Plans*
5.06		XXIX. Tree Cutting and Removal
5.06.010	5.03.500	Purpose and Findings
5.06.020	5.03.501	Definitions
5.06.030	5.03.502	Removal or Alteration of Trees Without a Permit Prohibited
5.06.040	5.03.503	Decision Making Body
5.06.050	5.03.504	Permit Procedures
5.06.060	5.03.505	Exceptions
5.06.070	5.03.506	Appeal
5.06.080	5.03.507	Penalties
5.20		XXXI. Public Trees
5.20.010	5.03.600	Purpose
5.20.020	5.03.601	Definitions
5.20.030	5.03.602	Administration
5.20.040	5.03.603	Interference with City Employees, Contractors or Representatives
5.20.050	5.03.604	Public Tree Care
5.20.060	5.03.605	Destruction of Public Trees Unlawful
5.20.070	5.03.606	Exceptions
5.20.080	5.03.607	Town Tree Master Plan
5.20.090	5.03.608	Master Tree List
5.20.100	5.03.609	Prohibited Trees
5.15		XXXII. Reasonable Accommodations in Housing
5.15.010	5.03.700	Purpose
5.15.020	5.03.701	Applicability
5.15.030	5.03.702	Application Requirements
5.15.050	5.03.703	Public Notice
5.15.060	5.03.704	Consideration of Request
5.15.070	5.03.705	Notice of Decision





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Pak Lin, Administrative Services Director
 VIA: Dan Barros, City Manager
 MEETING DATE: January 24, 2024
 SUBJECT: FY 2023-24 Mid-Year Financial Update & Budget Amendment

RECOMMENDATION

Staff recommends that the City Council:

MAKE A MOTION ACCEPTING THE FISCAL YEAR 2023-24 MID-YEAR FINANCIAL REPORT THROUGH DECEMBER 31, 2023

AND

ADOPT A RESOLUTION APPROPRIATING FUNDS AND AMENDING BUDGET FOR THE FISCAL YEAR 2023-24 TO INCREASE GENERAL FUND (11) APPROPRIATION BY \$140,000, PURSUANT TO CEQA GUIDELINE 15378.

EXECUTIVE SUMMARY

Mid-year financial reports serve as a communication tool on the financial health of the Town and provide an early warning of potential financial concerns. In reviewing the Town's finances through December 31, 2023, the general fund revenues and expenditures are trending consistently with the same periods in the prior three years. Staff is proposing \$60,000 increase to Police Patrol Equipment (11-220-80001) to replace existing firearms and \$80,000 to Public Works Drainage (11-320-73006) in preparation for the upcoming storm.

FISCAL IMPACT

Acceptance of the report has no fiscal impact. Approval of the budget amendment will increase the General Fund (11) Patrol Equipment budget (11-220-8001) by \$60,000 and the Public Works' Drainage budget (11-320-73006) by \$80,000.

BACKGROUND

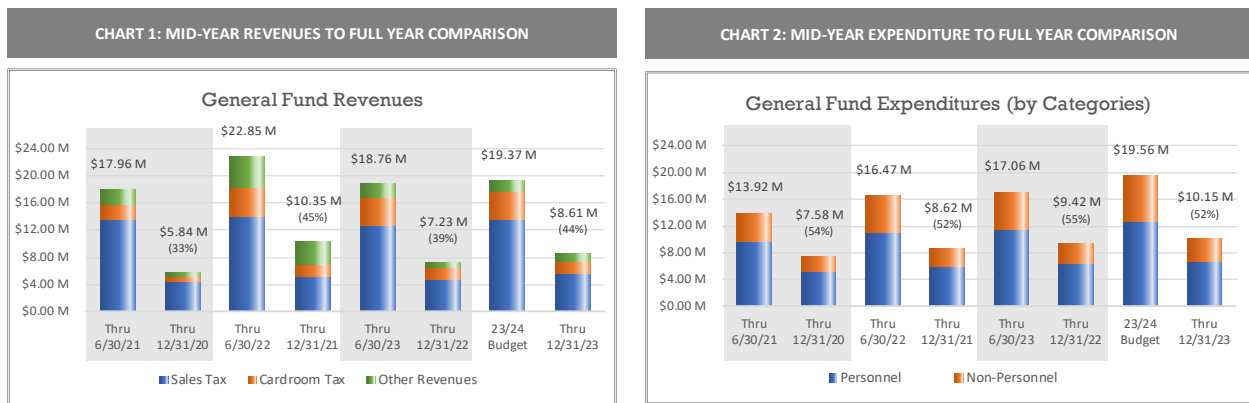
Annually, a mid-year financial review is submitted to the City Council for consideration and discussion. The review consists of a summary of the Town's fiscal performance, fund availability, and departmental needs and accomplishments. The review also includes a discussion on potential

overages and the use of potential savings, in accordance with Colma Administrative Code 4.01.200.

The mid-year financial review calculates the “mid-year ratio” and compares the results for multiple years. The “mid-year ratio” shows the likelihood that the Town will meet its budgetary goal for the year. This is also known as trend analysis.

ANALYSIS

As summarized in Attachment B of the staff report, the Town’s general fund revenues and expenditures are on target to meet its operating goals. Total general fund revenues through December 31, 2023 represent 44% and total expenditure represents 52% of the FY 2023-24 Budget. When comparing the ratio to the prior three years, the charts show that both general fund revenues and expenditures ratios are consistent with prior years. Barring an extreme economic downturn, FY 2023-24 operations should be consistent with the prior years and general fund revenues should reach the \$19.37 million revenue budget and expenditure should be less than the \$19.56 million expenditure budget. The charts for general fund revenues and expenditures are below.



Part of the mid-year financial review includes assessing the need to amend the budget to prepare for new programs or changes in operation. For FY 2023-24, Staff identified two main operating changes.

- **Purchase of New Firearm.** The Police Department needs to replace its existing firearms. The projected cost of the new firearm and training is \$60,000.
- **Sinkhole Repair at Junipero Serra Boulevard.** Resolving the sinkhole on Junipero Serra Boulevard costs more than \$100,000. The department can absorb \$20,000-\$30,000 in its operating budget but needs a budget increase of \$80,000 to 11-320-73006 in preparation for the upcoming storms.

Reasons For the Recommended Action/Findings

Acceptance of the report provides disclosure of current-year revenue and expenditure trends.

Council Adopted Values

Periodic review of the Town's financial condition aligns with the City Council adopted *responsibility* value. It exemplifies financial accountability and ensures reasonable use of public funds. Additionally, publishing the accepted report on the Town's website promotes meaningful public involvement and thereby aligns with the City Council adopted *fairness* value.

CONCLUSION

Staff is requesting that the City Council receive and file the report.

ATTACHMENTS

- A. Resolution
- B. 2023-24 Mid-Year Financial Report



**RESOLUTION NO. 2024-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

RESOLUTION AMENDING THE FISCAL YEAR 2023-24 BUDGET AND APPROPRIATING FUNDS TO INCREASE THE GENERAL FUND (11) APPROPRIATION BY \$140,000, PURSUANT TO CEQA GUIDELINE 15378

The City Council of the Town of Colma does hereby resolve:

1. Background

- (a) On June 14, 2023, the City Council adopted the Fiscal Year (FY) 2023-24 Budget.
- (b) Staff reviewed the budget to actual through December 31, 2023 and found that the current operating budget does not include appropriations for the Police Department’s firearm replacement program and for the Public Works Department’s sinkhole repair on Junipero Serra Boulevard.

2. Finding

- (a) The Police Department’s firearm replacement program will involve replacing firearms in the Police Department. The Department needs to replace its firearms with a new model. The cost for the replacement of the firearms and for associated training is \$60,000.
- (b) The Public Works drainage budget is dedicated for unforeseen emergencies. In the first half of FY 2023-24, the sinkhole repair on Junipero Serra Boulevard depleted the drainage budget. As a result, the Department needs an \$80,000 budget increase.

3. Amendment to Budget

- (a) The FY 2023-24 Budget for the Town of Colma is hereby amended by increasing the general fund (11) budget as follows:
 - (i) Police Equipment (11-220-80001) by \$60,000 and
 - (ii)Public Works Drainage (11-320-73006) by \$80,000.
- (b) The funds described in this resolution are hereby appropriated as described above.

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Certification of Adoption

I certify that the foregoing Resolution No. 2024-__ was duly adopted at a regular meeting of said City Council held on January 24, 2023 by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
John Irish Goodwin, Mayor					
Kenneth Gonzalez					
Carrie Slaughter					
Helen Fiscaro					
Joanne F. del Rosario					
<i>Voting Tally</i>					

Dated _____

John Irish Goodwin, Mayor

Attest: _____
Abigail Dometita, Interim City Clerk



FY 2023-24 MID-YEAR FINANCIAL REPORT

(JULY 1, 2023 – DECEMBER 31, 2023)

GENERAL FUND: BUDGET VS ACTUAL

Overall, the Town is financially healthy at mid-year. By December 31, 2023, the Town received \$8.61 million in General Fund revenues - with \$5.72 million in sales tax, \$1.81 million in cardroom tax and \$1.09 million in other general fund revenues. Total General Fund expenditure was \$10.15 million with a burn rate of 52%.

GENERAL FUND REVENUES

As shown in Chart 1 (right), the revenue run rate for General Fund is 44% of budget, which is similar to the prior three fiscal years. Additionally, the Town received 42% of its budgeted sales tax revenues and 43% of its cardroom tax by mid-year. These are good indicators the Town will reach our General Fund revenue projections by the end of the fiscal year; absent another unforeseen interruption to the economy.

GENERAL FUND EXPENDITURES

General Fund Expenditures are shown by Categories (Chart 2) and by Departments (Chart 3).

In Chart 2, personnel expenditures totaled \$6.69 million, or 52% of budget. The typical burn rate for personnel cost by mid-year is between 50% and 55%, because of lump-sum payments made towards unfunded pension liabilities in July of each fiscal year. Non-personnel expenditures of \$3.46 million, or 51% of budget, is reasonable as well, since the budget for non-personnel includes special projects slated for the second half of the fiscal year and contingency budget to address unforeseen emergencies.

Comparing expenditure trends by department (Chart 3), General Government and Public Safety spending rate is consistent with prior years, at 53% and 56%, respectively. General Government includes insurance payments (\$940,000) in the beginning of the fiscal year, and therefore the burn rate will generally be higher than 50% by mid-year. Public Works & Planning and Recreation are both trending at 42% and 48% respectively. This is typical of Public Works & Planning as majority of their budget is non-personnel.

GENERAL FUND RESERVES

Total General Fund reserves as of December 31, 2023 is \$21.9 million. The unassigned reserves are generally lower by mid-year because major tax revenues are one to two months delayed.

CHART 1: MID-YEAR REVENUES TO FULL YEAR COMPARISON

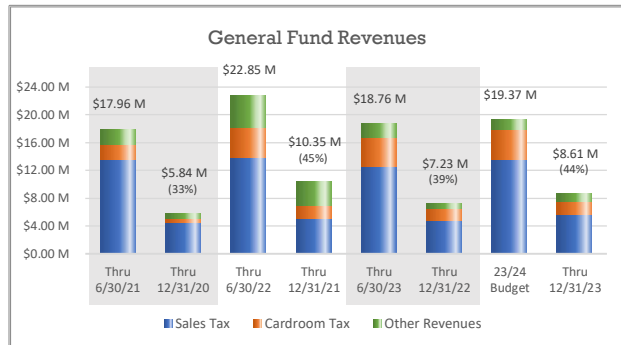


CHART 2: MID-YEAR EXPENDITURE TO FULL YEAR COMPARISON

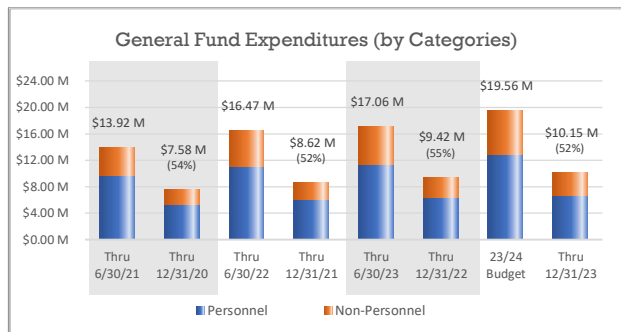


CHART 3: MID-YEAR EXPENDITURE TO FULL YEAR COMPARISON

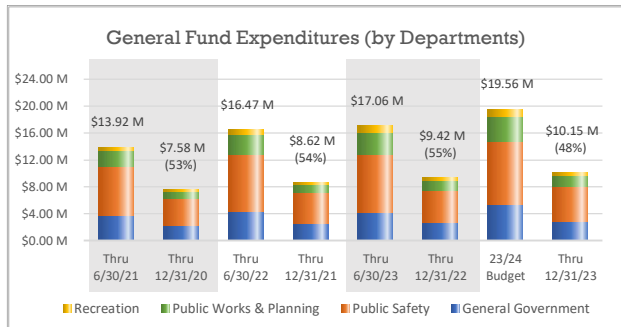


TABLE 4: GENERAL FUND RESERVES HISTORY

GENERAL FUND RESERVES	Jun 30, 2022	Jun 30, 2023	Dec 31, 2023
COMMITTED RESERVES (12)			
BUDGET STABILIZATION	15,000,000	15,000,000	15,000,000
DEBT REDUCTION	600,000	600,000	600,000
ACCRUED LEAVE PAYOUT	1,064,097	1,127,697	1,127,697
COMMITTED RESERVES TOTAL	16,664,097	16,727,697	16,727,697
ASSIGNED RESERVES (11)			
LITIGATION	100,000	100,000	100,000
INSURANCE	100,000	100,000	100,000
DISASTER RESPONSE & RECOVERI	750,000	750,000	750,000
ASSIGNED RESERVES TOTAL	950,000	950,000	950,000
UNASSIGNED RESERVE (11)	9,865,627	7,370,466	4,246,743
TOTAL GF RESERVES	27,479,724	25,048,163	21,924,440

TABLE 5: FUND BALANCE SUMMARY FOR ALL FUNDS

FUND TITLE		Fund	UNAUDITED Fund Balance @ 7/1/23	Revenues YTD 12/31/23	Expenditures YTD 12/31/23	Net Transfers In/(Out)	Net Change in Fund Balance	Fund Balance @ 12/31/23
GENERAL FUND	GENERAL FUND	11						
	LITIGATION RESERVE		100,000	0	0	0	0	100,000
	INSURANCE RESERVE		100,000	0	0	0	0	100,000
	DISASTER RESERVE		750,000	0	0	0	0	750,000
	UNASSIGNED		7,700,520	7,230,447	(9,475,408)	(850,318)	(3,095,279)	4,605,241
	UNASSIGNED	19	(330,055)	0	(28,443)	0	(28,443)	(358,498)
	GENERAL FUND RESERVE	12	0				0	0
	BUDGET STABILIZATION		15,000,000	0	0	0	0	15,000,000
	DEBT REDUCTION		600,000	0	0	0	0	600,000
	ACCRUED LEAVE PAYOUT RESERVE		1,127,697	0	0	0	0	1,127,697
GENERAL FUND TOTAL			25,048,163	7,230,447	(9,503,851)	(850,318)	(3,123,722)	21,924,440
SPECIAL FUNDS	GAS TAX	21	156,312	32,305	(7,552)	0	24,753	181,065
	MEASURE A	22	234,486	32,832	0	0	32,832	267,317
	HOUSING IMPACT FEES	25	280,475	(173)	0	0	(173)	280,302
	MEASURE W	26	124,572	17,619	0	0	17,619	142,191
	PUBLIC SAFETY GRANTS	27	36,053	0	0	0	0	36,053
	COPS GRANT	29	6,315	104,051	(110,288)	0	(6,237)	79
	SPECIAL FUNDS TOTAL			838,213	186,633	(117,839)	0	68,794
CAPITAL	CAPITAL IMPROVEMENT	31	2,958,171	(810)	(101,663)	515,000	412,527	3,370,698
	STREET CAPITAL	32	3,408,123	(632)	(355,076)	254,000	(101,708)	3,306,415
	CAPITAL FUNDS TOTAL			6,366,294	(1,443)	(456,739)	769,000	310,818
DEBT	COP DEBT SERVICE	43	295,995	83,665	(83,534)	81,318	81,449	377,444
	DEBT FUND TOTAL			295,995	83,665	(83,534)	81,318	81,449
ISF	VEHICLE / FLEET REPLACEMENT ISF	61	584,781	(509)	(63,106)	0	(63,614)	521,167
	INTERNAL SERVICE FUND (ISF) TOTAL			584,781	(509)	(63,106)	0	(63,614)
ENTERPRISE	SEWER OPERATING	81	189,395	462,459	(946,258)	0	(483,799)	(294,404)
	SEWER CAPITAL	82	0	0	0	0	0	0
	CITY PROPERTIES	83	1,264,867	73,730	(46,189)	0	27,541	1,292,409
	ENTERPRISE FUND TOTAL			1,454,262	536,189	(992,447)	0	(456,258)
TOTAL FOR ALL FUNDS (NON TRUST)			34,587,707	8,034,984	(11,217,516)	(0)	(3,182,533)	31,405,174
TRUST	OPEB TRUST	71	6,597,936	726,076	(490,838)	0	235,238	6,833,173
	RETIREMENT TRUST	72	4,301,481	499,510	(6,900)	0	492,611	4,794,092
	TRUST FUNDS TOTAL			10,899,417	1,225,586	(497,738)	0	727,848
TOTAL FOR ALL FUNDS (NON TRUST)			45,487,124	9,260,570	(11,715,254)	(0)	(2,454,685)	43,032,439

MID-YEAR BUDGET AMENDMENTS

The Town is amending the General Fund to address two unexpected operating change:

- (1) The Police Department needs to replace its existing firearms. The projected cost of the new firearm and training is \$60,000.
- (2) The Public Works department spent more than \$100,000 in resolving the sinkhole on Junipero Serra Boulevard. The department had depleted its contingency budget and needs a budget increase of \$80,000 to address the coming stormy season.

ADDITIONAL DETAILS AND INFORMATION

This format was prepared by the Finance Department to highlight in summary fashion key indicators of the Town's Financial performance. Additional Financial Reports and Budgets – including earlier Quarterly Financial Reports, Audits and Budgets – are also available on the Town website www.colma.ca.gov. This report will also be posted on the Town website after it has been reviewed by the City Council