COLMA MUNICIPAL CODE

CHAPTER ONE: ORGANIZATION, FUNCTIONS, AND GENERAL PROVISIONS

Subchapter 1.02: City Council and Mayor

Division One – Positions and Duties

1.02.010 City Council.

(a) The City Council of the Town of Colma shall consist of five persons, to be elected for the term prescribed by law.

(b) Each candidate for a City Council seat shall have been a resident of the Town of Colma for 30 days prior to his or her filing a declaration of candidacy. Each member of the City Council shall be an elector of the City at the time of assuming office.

[*History*: formerly § 1.201, ORD. 205, 12/8/76; ORD. 317, 3/13/85; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36501, 36503]

1.02.020 Filling a Vacancy on the Council.

(a) It is the policy of the City Council of the Town of Colma that the preferred means of filling a vacancy of an elective municipal office is by appointment and to offer as many citizens as may be interested an opportunity to apply for appointment.

(b) To assist the City Council in meeting its goals, the following procedures are hereby established:

(1) Upon the occurrence of a vacancy, the City Manager shall promptly send a notice by letter to the residents of the Town advising of the vacancy and inviting interested, qualified citizens to submit a letter of interest, which letter shall be delivered to Colma City Hall on or before the 20th day following the day the office becomes vacant and the City Manager shall advise the local newspaper of the foregoing.

(2) On the 21st day following the vacancy, or as soon thereafter as the City Council can meet, the City Council shall hold a special meeting to consider appointment from among the interested citizens.

(3) If the City Council, upon consideration of the interested candidates, cannot agree by majority vote on a qualified, acceptable appointee at said special meeting or any continuance thereof, the City Council may, within 30 days of the occurrence of the vacancy, call for a special election to fill the vacancy.

(4) If the City Council does not, within 30 days after the vacancy had occurred, appoint a person to the office or call an election to fill the vacancy, the office shall remain vacant until the next regular general election

(c) The City Council declares that the procedures set forth in this resolution are directory, not mandatory, and that any failure to follow the procedures set forth herein shall not invalidate any appointment made by the City Council nor any call for special election made by the City Council.

[*History*: formerly § Res 94-39, 6/8/1994; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE § 36802, 38638, 40602, 40603, 40604, 40605]

1.02.030 Selection of Mayor.

(a) The City Council shall meet on the Tuesday after the general municipal election at 7:30 p.m. at City Hall, 1198 El Camino Real, Colma, California, or as soon thereafter as the vote is canvassed, and shall select one council member to serve as mayor, and one council member to serve as mayor pro tempore, to be called vice mayor. The mayor and vice mayor serve at the pleasure of the Council and may be removed at any time, with or without cause and with or without notice, notwithstanding any provision to the contrary in this Code. Unless the City Council determines otherwise, the Council shall follow the optional procedures set forth in the remaining paragraphs of this section for selecting the mayor and vice mayor.

(b) The mayor and vice mayor selected under subsection (a) shall serve in their respective offices until the second Tuesday in November of the following year, or as soon thereafter as the council shall meet, at which time the vice mayor shall become mayor and the City Council shall choose one of its members as vice mayor.

(c) In the event of a vacancy in the office of mayor, the vice mayor shall serve as mayor for the unexpired term of office of the mayor, and the council shall appoint another council member to serve as mayor pro-tempore.

(d) It is tradition in the Town of Colma for the City Council to select its mayor and mayor pro-tempore on the basis of seniority. As used in this subsection, the seniority of a council member shall be determined first, from the most recent date such member commenced a term of service as mayor, and then from the date such member first assumed office as a member of the City Council, if such member has never served as mayor; provided that, if any member, being the then senior or next senior member of the City Council, announces his or her desire not to serve as mayor or vice mayor, respectively, then the seniority of such member shall be counted from the date he or she would have commenced a term of service had it not been for such announcement.

[*History*: formerly § 1.202 ORD. 205, 12/8/76; ORD. 242, 9/12/79; ORD. 547, 2/10/99; ORD. 620, 9/8/04, ORD. 667, 3/12/08; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36801]

1.02.040 Duties of Mayor.

(a) The Mayor is authorized to, and shall perform those duties now or hereafter specified by the laws of the State of California and by this Code, including, but not limited to, the duties to:

(1) preside at meetings of the City Council and decide questions or order thereat, subject to appeal by any member of the City Council, on which appeal no member shall speak more than once unless by unanimous consent of the Council;

(2) sign all warrants drawn on the City treasury, all written contracts and conveyances made or entered into by the City, all ordinances and resolutions passed by the City, and all instruments requiring the City seal; and

(3) direct a sufficient number of policemen to attend and keep order at any public meeting of the City at which, in his opinion, a breach of the peace may occur.

(b) The Mayor is the official representative of the Town for all ceremonial purposes.

(c) The Mayor shall consult with the City Manager in the development of the agenda and may perform such other duties consistent with the mayoral office as may be imposed by the Council.

(d) The Mayor shall preside over all Council meetings. The Mayor shall have authority to preserve order at all Council meetings, to remove any person from any meeting of the Council for disorderly conduct, to enforce the rules of the Council and to determine the order of business under the rules of the Council. The Mayor shall also have the power to administer oaths and affirmations.

(e) The Mayor does not possess any power of veto.

[*History*: formerly § 1.203, ORD. 205, 12/8/76; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE § 36802, 38638, 40602, 40603, 40604, 40605]

1.02.050 Vice Mayor.

(a) If the Mayor is absent or unable to act, the Vice Mayor is authorized to and shall perform the duties of the Mayor until the Mayor returns or is able to act. The Vice Mayor has all the powers and duties of the Mayor.

(b) Without limiting the foregoing:

(1) If the Mayor is absent from a meeting, the Vice Mayor shall be the presiding officer; and

(2) If the Mayor is outside of the Town limits, the Vice Mayor shall be authorized to execute documents authorized by the City Council.

[*History*: formerly § 1.204, ORD. 205, 12/8/76; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36802, 40601]

1.02.060 Mayor Pro Tempore.

When the Mayor and Vice Mayor are both absent from a meeting, the members present shall choose another member, preferably by seniority, to act as Mayor Pro Tempore, and that person shall preside over that meeting.

[*History*: ORD. 672, 9/10/08]

Division Two – Time and Place of Meetings

1.02.070 Open and Public.

Except as specifically provided by law, all meetings of the Council shall be open and public.

[*History*: ORD. 672, 9/10/08]

1.02.080 Regular Meetings.

(a) The City Council shall meet regularly at 7:30 p.m. on the second Wednesday of each month, at the Colma Community Center, 1520 Hillside Boulevard, Colma, California, then and there to conduct such business as may properly come before it. When the second Wednesday of any month falls on a public holiday, the regular meeting shall be held at 7:30 p.m. the following day.

(b) The City Council will not hear any new agenda items past 11:00 p.m. without a majority vote of the Council. At or before 11:00 p.m., the City Council shall determine whether to continue considering any pending item or whether to continue the item. If agenda items remain after the 11:00 pm adjournment, a special meeting may be scheduled, or the items may be continued until the next regularly scheduled City Council meeting. A continued item will appear first under its category at the next regularly scheduled City Council meeting.

(c) The City Council may, from time to time, elect to meet at other locations within the Town and, upon such election, shall give public notice of the change of location in accordance with the applicable provisions of the Government Code.

(d) If, by reason of fire, flood or other emergency as defined in Subchapter 1.17 of this Chapter, it would be unsafe or impossible to meet in the Town of Colma City Hall, City Council meetings may be held, for the duration of the emergency, at such other place as may be designated by the Mayor or, if the Mayor is unable or unavailable to so designate, by the Vice Mayor or City Manager.

[*History*: formerly § 1.210, ORD. 205, 12/8/76; ORD. 390, 4/12/89; ORD. 436, 3/10/92; ORD. 444, 9/10/92; ORD. 620 9/8/04; ORD. 672, 9/10/08; ORD 717, 3/13/13]

[*Reference*: GOV'T CODE §36813, 54954.2]

1.02.090 Special Meetings.

(a) A special meeting may be called at any time by the presiding officer or by a majority of the members of the Council, by delivering a written notice to each member at least 24 hours before the meeting is to be held, and such other mailed notice as may be required by law. Such written notice is waived as to each member who is actually present at the meeting or, prior to the meeting, files with the City Clerk a written waiver of notice. Notice shall also be posted in a location freely accessible to the public and delivered to any newspaper, radio or television that has requested notice in writing at least 24 hours before the time of the special meeting. The notice shall specify the time and place of the meeting, the business to be transacted and an opportunity for the public to address the City Council on any item. These noticing provisions shall be followed even where the entire special meeting is conducted in closed session. No business other than that so specified shall be considered at the meeting.

(b) The public must be given an opportunity to address the legislative body before or during the consideration of any matter described in the special meeting notice.

[*History*: formerly § 1.209, ORD. 205, 12/8/76; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36813, 54956]

1.02.100 Emergency Meetings.

An emergency meeting may be called under the circumstances and pursuant to the procedures set forth in Subchapter 1.17 of this Chapter.

[*History*: ORD. 672, 9/10/08]

1.02.110 Adjourned and Continued Meetings.

(a) The City Council may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment if less than a quorum attends. If no members attend, the City Clerk may declare the meeting adjourned to a stated time and place. In that case, written notice of the adjournment must be given in the same manner as notice of special meetings. In all cases, notice of adjournment must be posted on or near the door of the meeting room within 24 hours of the adjournment.

(b) If a hearing is continued, the time and place where the hearing will resume must be announced at the time of the continuance. Written notice of the continuance must be given in the same manner as notice of adjourned meetings, unless the hearing is continued to a time less than 24 hours after the order of continuance in which case, notice of the continuance must be posted immediately following the meeting at which the order of continuance was made.

[*History*: ORD. 672, 9/10/08]

1.02.120 Closed Sessions.

(a) The City Council may hold closed session during any regular or special meeting, or any time otherwise authorized by State law, to consider or hear any matter which is authorized by State law to be heard or considered in closed session.

(b) The general subject matter for consideration shall be expressed in an open meeting before such session is held.

(c) Council members may not reveal the nature of discussion or the authorizations, decisions, or actions from a closed session, unless required by law.

[*History*: ORD. 672, 9/10/08]

1.02.130 Accessibility to Public Meetings.

The Town is committed to creating an environment in which facilities for public meetings are accessible. The Town will provide reasonable accommodations (auxiliary aids interpreters, readers, assisted listening devices, text telephones, large print materials, audio tape, help in filling out forms, and other similar services and actions) if such reasonable accommodation (1) has been requested; (2) is required by a person with a disability in order to participate in a public meeting; and (3) can be provided without undue hardship to the Town. Disabled persons may request auxiliary aids and services of their choice, which will be given primary consideration. Communication of accessibility will be included in Town publicity announcements.

[*History*: ORD. 652, 1/10/07; ORD. 672, 9/10/08]

Division Three - Conduct of Meetings

1.02.140 Rules of Order and Procedure.

(a) Except as otherwise provided in this Code, the proceedings of the City Council shall be governed under the latest edition of "Rosenberg's Rules of Order" on all matters pertaining to Parliamentary Law, but no ordinance, resolution, proceeding or action of the City Council shall be invalidated or the legality otherwise affected by the failure or omission to observe or follow such rules.

(b) Subject to appeal to the full Council, the Mayor shall have the authority to prevent the misuse of motion, the abuse of any privilege, or the use of parliamentary procedures to obstruct the business of the Council.

(c) The Mayor shall facilitate and control the conduct of Council meetings. In this role, the Mayor will assist the Council to stay focused on the agenda and the matter under consideration by the Council.

[*History*: formerly § 1.208, ORD. 205, 12/8/76; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36813]

1.02.150 Quorum.

(a) A quorum shall consist of a majority of the City Council. A quorum shall be necessary for the transaction of business at a regular or special City Council meeting.

(b) If a council member abstains from voting on a matter, he or she is counted for purposes of establishing a quorum.

(c) If a council member is disqualified from participating because of a conflict on interest, he or she is not counted for purposes of establishing a quorum.

[*History*: formerly § 1.211, ORD. 205, 12/8/76; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §54956]

1.02.160 Council Actions.

(a) Except where a specific form of action is required by law, actions by the City Council may be taken by means of an ordinance, resolution or minute action duly made and passed by a majority of the City Council voting on the matter.

(b) An abstention does not count as a vote for or against a matter.

[*History*: ORD. 672, 9/10/08]

1.02.170 Agenda and Order of Business.

(a) Agenda

(1) An agenda of items to be considered by the City Council in accordance with the Order of Business will be prepared by the City Clerk on the third business day in advance of any meeting of the City Council. The City Clerk shall promptly mail or deliver a copy of the agenda to each member of the Council, the City Engineer and the City Attorney. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disabilities, and the agenda shall include information regarding how, to whom and when a request for disability-related modification or accommodation, including auxiliary aids or services may be made where required by a person with a disability in order to participate in the public meeting.

(2) The City Council shall not discuss or take action on an item that did not appear on the posted agenda at least 72 hours prior to the City Council meeting, except that members of the Council or Staff may briefly respond to questions posed by persons exercising their public testimony rights under the Brown Act. In addition, on their own initiative or in response to questions posed by the public, a member of the City Council or Staff may: (1) ask a question for clarification; (2) make a brief announcement; or (3) make a brief report on his or her own activities. Furthermore, a member of the City Council, subject to rules or procedures of the City Council, may provide a reference to Staff or other resources for factual information, request Staff to report back to the Council at a subsequent meeting concerning any matter, or take action to direct Staff to place a matter of business on a future agenda.

(3) Notwithstanding the foregoing, the City Council may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the City Council shall publicly identify the item.

(A) Upon a determination by a majority vote of the City Council that an emergency situation exists, as defined in Subchapter 1.17 of this Code.

(B) Upon a determination by a two-thirds vote of the City Council present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the Council subsequent to the agenda being posted as specified in subdivision (a)(1).

(C) The item was posted pursuant to subdivision (a)(1) for a prior meeting of the Council occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(b) *Order of Business.* The regular order of business may be modified by the Mayor to accommodate persons who have business before the Council, or for any other purpose. The following shall constitute the regular order of business to be followed in conducting the regular meeting of the City Council:

(1) Roll Call

(2) Consent Calendar

(3) Public Hearings

(4) Unfinished Business

(5) New Business

(6) Study Session

(7) Reports

(8) Council Calendar

(9) Adjournment

(c) *Consent Calendar*

(1) The City Clerk shall enter on the Consent Calendar those routine, non-controversial items regarding which it can reasonably be expected that there will be no discussion by members of the City Council, Staff, or interested parties.

(2) At the time for consideration of the Consent Calendar, the Mayor shall inquire if any council member, staff member, or interested person wishes to discuss any item on the Consent Calendar. In the event that any person indicates his desire to discuss any item, the Mayor shall order such item removed from the Consent Calendar and placed on the regular agenda for consideration in such order he or she deems appropriate.

(3) The Consent Calendar may include items such as the following:

(A) Setting Public Hearings;

(B) Approval of Minutes;

(C) Approval of Warrants;

(D) Approval of Public Works matters;

(E) Acceptance of Improvements;

(F) Second reading and adoption of ordinances;

(G) Claims against the City; and

(H) Destruction of Records.

1.02.180 Minutes.

(a) *Content.* Public actions of the City Council are recorded in written minutes of the City Council meeting. The City Clerk is required to make a summary only of actions taken or not taken by a vote of the City Council and is not required to record any remarks of council members or of any other person. Generally, the summary of actions and items discussed at the meeting will, by way of example, include a record of the motion as stated by the member making the motion, a record of the member seconding the motion, a record of the vote taken and the vote of each member, and all ayes, noes, abstentions and absent votes. The minutes will, where possible, also reflect the names of public speakers.

(b) *Comments for the Record*. A Councilmember's comments may be included in the record only if he or she makes a request that the statement is "for the record" *before* making the comments, and the City Council approves the request.

(c) *Confidentiality.* Actions of the City Council concerning confidential property, personnel and/or legal matters of the City are to be reported consistent with State law.

(d) *Acceptance by City Council*. Written minutes shall be submitted to the City Council at the next regularly scheduled meeting for acceptance. Written minutes shall be made available for public inspection at City offices as soon as is reasonably practicable, after the minutes have been approved by the City Council.

(e) *Recordings of Meetings*. Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the City Council shall be secured and stored at Town offices and shall be subject to inspection and copying pursuant to the Public Records Act. The City Clerk is authorized to erase or destroy any audio or video tape of a meeting 30 days after the minutes of the meeting have been approved, unless a request has been made in accordance with section 1.02.250(e) below or the City Attorney instructs the City Clerk to preserve the recording.

1.02.190 Oral Communications.

(a) *Public Comments.* The "Public Comments" portion of the meeting is set aside for members of the public to address the City Council about Town business other than scheduled agenda items. It is not a public forum for members of the public to discuss matters beyond the Town's jurisdiction or for Town of Colma employees to air professional grievances, complaints, observations or questions of any nature.

(b) *Addressing the Council.* Any member of the public wishing to address the City Council orally, on Town business matters appearing on the Council agenda, may do so when that item is taken up by the City Council, or as otherwise specified by the Council or its presiding officer. Preference shall be given to those who have completed and presented to the City Clerk a Request to Address the City Council. During the meeting, no person will be permitted to speak about matters or present evidence which do not relate directly to the matter being considered. A determination of relevance shall be made by the Mayor, but may be appealed by the speaker to the full Council, or by a Councilmember.

(c) *Through the Chair.* Persons in the audience should address their remarks to the Mayor and ask their questions through the Mayor. They may not address questions or remarks between themselves or to a council member, except with the express permission of the Mayor.

(d) *Time Limits*. Except as provided elsewhere in this Code or as ordered by the Mayor at a meeting, all presentations shall be subject to the following time limits:

(1) Staff presentations are limited to 10 minutes;

(2) A time limit of three minutes may be imposed on each speaker who is not a project applicant or appellant; and

(3) In order to expedite matters and to avoid repetitious presentations, whenever any group of persons wishes to address the City Council on the same subject matter, the presiding officer may request that a spokesperson be chosen by the group, and, in case additional matters are to be presented by any other member of the group, that there be a limit on the number of such persons addressing the City Council. A specific time limit may also be set for the total presentation.

[*History* : formerly 1.205, ORD. 205, 12/8/76; ORD. 211, 6/8/77; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36813, 36808]

1.02.200 Written Communications.

(a) Members of the public are encouraged to share their comments in writing to the City Council and City Manager, relating to any items of Town business, whether on the City Council agenda or otherwise. Such written comments will be distributed to members of the Council, and considered and acted upon, or not acted upon, as the City Council, in its judgment, may deem appropriate.

(b) Any person seeking to submit written materials to the City Council for consideration at a meeting shall submit them to the City Clerk at least 72 hours in advance of a regular meeting and 24 hours in advance of a special meeting. This requirement shall not apply to materials that are used to illustrate, present or summarize the same information in a different medium (e.g., power point presentations, large pictorial or graphic displays) or to presentation outlines.

(c) A person other than a staff member seeking to submit written materials after these deadlines must obtain permission from the City Manager and must state a good reason why the materials were not submitted earlier. The City Manager may grant the request with or without conditions, including but not limited to the condition that the matter be continued to a later date, or may deny the request.

(d) Documents submitted to a majority of the council less than 72 hours prior to a public meeting should be made available for public inspection at a public counter or as soon as they are distributed to the City Council.

(e) Any document related to an agenda item provided to the City Council at the meeting by the staff must be made available to the public at the meeting. Documents provided by others need only be provided to the public after the meeting.

(f) Written communications and petitions concerning the subject matter of the hearing will be noted, read aloud, or summarized by the Mayor. A reading of the entire communication or petition shall take place if approved by a majority of the City Council.

1.02.210 Ordinances.

(a) *Introduction and Passage.* Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by unanimous vote of the council members present, all ordinances shall be read in full either at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section.

(b) *Enacting.* The enacting clause of ordinances shall be "The City Council of the Town of Colma does ordain as follows":

(c) *Vote and Signature.* All ordinances require the vote of at least three council members for passage. If passed, ordinances shall be signed by the Mayor and attested by the City Clerk.

(d) *Posting.* Within fifteen days after its passage, the Clerk shall cause each ordinance, or a summary thereof prepared by the City Attorney, to be posted in at least three public places in the City. Except as provided in subsection (e) below, an ordinance shall not take effect or be valid unless it is published or posted in substantially the manner and for the time required by this subsection.

(e) *When Ordinances Take Effect.* Except for ordinances set forth in this subsection, ordinances shall take effect thirty days after their adoption. An ordinance shall take effect immediately if it is an ordinance:

(1) relating to an election;

(2) for the immediate preservation of the public peace, health or safety, containing a declaration of the facts, constituting the urgency, and is passed by a four-fifths vote of the City Council;

(3) relating to street improvement proceedings;

(4) relating to taxes for the usual and current expenses of the Town; or

(5) covered by particular provisions of the law prescribing the manner of its passage and adoption.

(f) *Urgency Ordinances.* An urgency ordinance, if passed in compliance with subsection (e)(2) above, may be adopted immediately upon introduction at either a regular or special meeting of the City Council.

[*History* : formerly § 1.206, Ord. 205, 12/8/76; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36931, 36932, 36933]

1.02.220 Resolutions.

Resolutions or orders for payment of money shall be adopted or made only at a regular meeting, or at a special meeting for which the notice of such special meeting specifies the business to be transacted. Resolutions and orders for payment of money require the vote of at least three council members for passage.

[*History*: formerly § 1.207, ORD. 205, 12/8/76; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36935, 36936]

1.02.230 Notice of Public Hearing.

Notice of the time, place and purpose of a public hearing shall be given by the City Clerk not less than ten (10) nor more than forty (40) days prior to the date of such hearing in the following manner:

(a) In the case of any matter not involving a discretionary entitlement to develop or use land, by posting a copy of such notice on the three official bulletin boards of the Town of Colma.

(b) In the case of any matter involving a discretionary entitlement to develop or use land, by:

(1) posting a copy of such notice on the three official bulletin boards of the Town of Colma;

(2) posting a copy of such notice in a conspicuous place at or near the property involved;

(3) mailing or delivering a copy of such notice to the owners of all property within 300 feet of the property involved, using for this purpose the last adopted tax roll of the County of San Mateo; and

(4) mailing or delivering a copy of such notice to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

(c) The notice shall include the date, time, and place of the public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

(d) The failure of any person or entity to receive the notice given pursuant to this section shall not constitute grounds for any court to invalidate the actions of a local agency for which the notice was given.

(e) In addition to the notice required by this section, the Town may give notice of the hearing in any other manner it deems necessary or desirable.

(f) For any public hearing involving a permit for a drive-through facility, or modification of an existing drive-through facility permit, the Town shall incorporate, where necessary, notice procedures to the blind, aged, and disabled communities into its normal noticing procedures, in order to facilitate their participation in any hearing on, or appeal of the denial of, a drive-through facility permit.

[*History*: Ord. 691, 07/14/10]

[*Reference*: GOV'T CODE §§ 65090 to 65095, 65905]

1.02.240 Administrative Public Hearings.

(a) Notwithstanding any other provision in this Code, a public hearing affecting a substantial, direct property interest of any applicant, appellant or other person or entity (hereinafter, "administrative public hearing") shall be conducted in accordance with the provisions of this section.

(b) The following shall constitute the order of conducting an administrative public hearing, unless the Mayor shall direct otherwise:

(1) Staff report and recommendations;

(2) Applicant's presentation of evidence;

(3) Proponent's presentation of evidence;

(4) Opponent's presentation;

(5) Recall of witnesses by City Council;

(6) Close of public hearing.

(c) A project applicant, appellant or other person or entity with a substantial, direct property interest in an administrative public hearing, or any duly designated representative of such a person or entity, shall have sufficient time for oral presentation or testimony in connection with the noticed public hearing item to which their oral presentation or testimony relates. However, the decision on what constitutes sufficient time shall rest with the City Council or presiding officer of the hearing, based on the facts and circumstances of the particular matter, the nature and complexity of the particular issue, the number of persons wishing to be heard, and like considerations. It is presumed that ten minutes constitutes sufficient time for a project applicant or appellant to make its oral presentation, regardless of the number of individual presenters.

(d) The following rules shall govern the taking of evidence at a public hearing:

(1) Hearings need not be conducted according to technical rules relating to evidence and witnesses. Any relevant examples or evidence may be considered allowable if they present the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs.

(2) Witnesses may be sworn, in the discretion of the Mayor.

(3) Witnesses shall address their comments to the City Council, and should make their presentation in narrative form.

(4) Any person desiring to pose questions in the nature of cross-examination shall submit the nature of such questions to the Mayor who may allow that person to conduct the cross-examination or may elect to have the Mayor conduct the cross-examination at a time he or she considers appropriate. Questions that seek merely to impeach a witness, or that raise matters that can be made part of the presentation of the person seeking to pose such questions, are not favored.

(5) Hearsay statements may be admitted in the discretion of the Mayor.

(6) Petitions and letters may be admitted for the sole purpose of proving support or opposition to the matter under consideration.

(7) Reports and writing made by any person present at the hearing, or made by any governmental agency in the regular course of business, may be admitted in evidence.

(e) When a matter is contested and a request is made in writing prior to the date of the hearing, the City Clerk shall insure that a record of all their hearings shall be made and duly preserved, a copy of which shall be available at cost. The Town may require a deposit from the person making the request.

(f) Nothing herein shall be construed to deprive, restrict or limit the power of the Mayor or the City Council to maintain order at the meeting, or to set or amend its own rules for the conduct of the meeting.

[*History*: formerly § 1.212, ORD. 234, 3/14/79; ORD. 411, 5/9/90; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36813]

Division Four – Reconsiderations and Appeals

1.02.250 When Administrative Actions Become Final.

For purposes of judicial review, all administrative actions by the City Council become final on the date taken, except where:

(1) This Code specifically provides that the action is effective on a later date, in which case the action shall become effective on that date; or

(2) A Request for Reconsideration is specifically authorized by this Code and is filed in a timely fashion, in which case the effective date shall be as set forth in the next section.

1.02.260 Requests for Reconsideration.

Whenever this Code specifically provides for a Request for Reconsideration of an administrative action of the City Council, a project applicant or other person or entity with a substantial, direct property interest in the administrative action taken by the City Council may request that the administrative action of the City Council be reconsidered, in accordance with the following procedures:

(1) A written Request for Reconsideration, along with the specified fee, shall be filed with the City Clerk within 10 days following the action of the City Council.

(2) The Request for Reconsideration shall specifically state the interest of the party filing the request, and wherein it is claimed that there was an error or abuse of discretion by the City Council, or wherein the City Council's decision is not supported by evidence in the records.

(3) The Request for Reconsideration shall be brought before the City Council not later than its next regular meeting following 15 days after filing of such request with the City Clerk.

(4) When the Request for Reconsideration is brought before the City Council, the City Council shall vote to either grant or deny the Request for Reconsideration.

(5) The motion shall be granted only if at least three council members so vote. If the motion carries, the original matter will be considered at that or another meeting, and a new motion is in order. The matter may be discussed and debated and evidence may be taken, as if the matter were on the floor for the first time. If the Request for

Reconsideration is not granted, the prior action taken by the City Council on the matter shall become final.

[*History*: formerly § 1.213, ORD. 234, 3/14/79; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

[*Reference*: GOV'T CODE §36813]

1.02.270 Appeal from Administrative Decision.

(a) Except as provided below, the procedures set forth in this section shall govern an appeal by any interested person from an action, decision or determination ("action") by the City Manager, City Planner, or City Engineer (i) granting or denying any permit authorized by the Town of Colma Municipal Code, or (ii) affecting some other property interest of the appellant.

(b) The appellant must file a written notice of appeal with the City Clerk within 10 days after receiving notice of the action and pay a filing fee established by the City Council by resolution. The notice of appeal shall state the action being appealed, the date of the action, the name of the official who took the action, and a brief summary of the reasons why the appeal should be granted.

(c) An appeal from an administrative action shall be placed on the agenda of the City Council at a regular or special meeting to be conducted within 60 days of receipt of the notice. The appeal shall be determined by the City Council as a summary proceeding, without a full evidentiary hearing and without a public hearing, unless state law or this Code otherwise requires the appeal to be considered at a public hearing, as in the case of an appeal from a decision to grant or deny a use permit pursuant to sections 5.03.410 or 5.03.520 of this Code. The appellant shall be given a reasonable opportunity to present his or her arguments. The City Council shall have the power to approve, modify, or overrule said action in a manner not inconsistent with Federal or State law, or local ordinances. For purposes of judicial review, the decision of the City Council shall be final when made.

(d) The provisions of this section shall not apply to an appeal from a disciplinary action by an employee or a grievance by an employee, which shall be handled in the manner prescribed by the Town's Personnel Policies and Procedures Manual; or to any matter governed by section 1.12.010 of this Code.

[*History*: formerly § 1.214, ORD. 521, 12/10/97; ORD. 620, 9/8/04; ORD. 672, 9/10/08; ORD. 691, 07/14/10]

[*Reference*: GOV'T CODE §36813]

Division Five - Validity of Actions Taken

1.02.280 Validating Actions.

The City Attorney, or special counsel appointed by the City Council, may bring an action under California Code of Civil Procedure section 860 et seq. to determine the validity of any matter considered by the City Council, including but not limited to the validity of any ordinance, resolution, appointment to office, contract, tax, assessment, or appropriation.

[*History*: formerly § 1.215, ORD. 581, 7/12/00; ORD. 620, 9/8/04; ORD. 672, 9/10/08]

1.02.290 Validity of Permits.

The City Council shall not issue any permit, license, or other entitlement that would violate Federal or State law or a mandatory provision of this code. The issuance of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Code or of other ordinances, laws or regulations.

[*History*: ORD. 653, 2/21/07; ORD. 672, 9/10/08]

Division Six - Accessibility to Services, Programs and Activities

1.02.300 Findings.

The City Council of the Town of Colma finds as follows:

(a) In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), and Section 504 of the Rehabilitation Act of 1973 (the "Acts"), the Town of Colma will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

(b) The Town of Colma does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

(c) The Town of Colma is committed to ensuring that no qualified person with a disability is excluded from participating in, or denied the benefits of, the programs, services, and activities provided by the Town in the most integrated way appropriate to their needs, because of a disability, and that its communications with people with disabilities are as effective as its communications with others, and therefore it is the policy of the Town of Colma to provide reasonable accommodations for people with disabilities seeking access to Town of Colma services, programs, and activities or communications.

(d) It is the policy of the Town of Colma to, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the Town's programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

(e) It is the policy of the Town of Colma to make all reasonable modifications to policies, practices and procedures as needed to ensure that people with disabilities have an equal opportunity to enjoy all of its services, programs, and activities. For example, individuals with service animals are welcomed on all Town property, even where pets would otherwise be prohibited.

[*History*: ORD. 689, 3/10/10]

1.02.310 Purpose.

This subchapter provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to Town of Colma services, programs, activities, communications and public facilities. For purposes of this subchapter, public facilities include all or any portion of public buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the public building, property, structure, or equipment is located.

[*History*: ORD. 689, 3/10/10]

1.02.320 Applicability.

(a) *Authorized Applicants.* A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of any Town of Colma ordinance, rule, regulation, policy, procedure or practice acts as a barrier to equal access to Town of Colma services, programs, activities, communications and public facilities by a person with a disability.

(b) Requests should be directed to the City Manager

[*History*: ORD. 689, 3/10/10]

1.02.330 Definitions.

(a) 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. This chapter is intended to apply to those persons who are defined as disabled under the Acts.

(b) A "physical impairment" is a physiological disorder or condition, cosmetic disfigurement or anatomical loss impacting one or more body systems. Examples of body systems include neurological, musculoskeletal (the system of muscles and bones), respiratory, cardiovascular, digestive, lymphatic and endocrine.

(c) A "mental impairment" is a mental or psychological disorder. Examples include mental retardation, emotional or mental illness, and organic brain syndrome.

(d) Other "impairments" that may qualify as a disability include, without limitation, contagious and noncontagious diseases; orthopedic, vision, speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; specific learning disabilities; HIV disease (with or without symptoms), tuberculosis, drug addiction, and alcoholism.

(e) A "major life activity" is an activity that is central to daily life of most people, including, without limitation, walking, seeing, hearing, breathing, sleeping, speaking, eating, caring for oneself, sitting, standing, lifting, bending, learning, reading, thinking, working, concentrating, communicating, and performing manual tasks that are central to daily life. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of

the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(f) An impairment "substantially limits" a major life activity if the person cannot perform a major life activity the way an average person in the general population can, or is significantly restricted in the condition, manner or duration of doing so. An impairment is "substantially limiting" if the limitation is severe, significant, considerable, or to a large degree within the meaning of current ADA jurisprudence.

[*History*: ORD. 689, 3/10/10]

1.02.340 Methods of Compliance.

(a) The Town may comply with the requirements of this subchapter through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities. In choosing among available methods for meeting the requirements of this subchapter, the Town shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(b) *Limitations on Obligation to Provide Reasonable Accommodation*.

(1) The Town is not required to grant a request for a reasonable accommodation where it can demonstrate that the requested accommodation would result in a fundamental alteration to the nature of its program, or activity, or would result in an undue financial or administrative burden. A fundamental alteration is a change to such a degree that the original program, service, or activity is no longer the same.

(2) The Town is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this subchapter.

(3) The Town is not required to provide people with disabilities with personal or individually prescribed devices (wheelchairs, hearing aids or communication devices) or to provide services of a personal nature (such as assistance in eating, toileting or dressing) unless providing such services are part of the services offered by the program.

(4) The Town is not necessarily required to make a public facility fully compliant with current accessibility codes, so long as all Town services, programs, or activities are accessible to and usable by people with disabilities when viewed in their entirety.

[*History*: ORD. 689, 3/10/10]

1.02.350 Public Meeting Notices, Agendas, Minutes and Written Communications.

(a) All notices, agendas, minutes and written communications provided to the public in connection with a public meeting under any provision of this subchapter or Code shall be made

available in appropriate alternative formats to persons with disabilities when requested pursuant to this division and when necessary as a reasonable accommodation to enable such persons to have equal access to the notice or hearing.

(b) All public meeting notices and agendas shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability in order to participate in the public meeting or hearing for which notice is being given.

[*History*: ORD. 689, 3/10/10]

1.02.360 Notices Generally.

All notices required under, or provided in connection with any action taken by the Town of Colma pursuant to this Code, including without limitation, notices of pending permit and land use entitlement applications; notices of administrative hearings; notices of appeals; notices regarding local emergencies; and notices of the sale of public property shall be made available in appropriate alternative formats to persons with disabilities when requested pursuant to this division and when necessary as a reasonable accommodation to enable such persons to have equal access to the notice or program, service or activity.

[*History*: ORD. 689, 3/10/10]

1.02.370 Public Forms and Applications Generally.

All forms and applications provided by the Town of Colma, or required to be submitted to the Town of Colma pursuant to this Code or the Colma Administrative Code, including without limitation, employment applications; permit applications; applications for participation in Town recreation programs; applications for administrative hearings and requests for appeals; and forms for submitting claims against the Town of Colma pursuant to Chapter 1-14 of this Code, shall be made available in appropriate alternative formats to persons with disabilities when requested pursuant to this division and when necessary as a reasonable accommodation to enable such persons to have equal access to the application or related service, program or activity.

[*History*: ORD. 689, 3/10/10]

1.02.380 Equally Effective Communication.

(a) In order to ensure that its communications with people with disabilities are equally effective as its communications with others, the Town shall provide appropriate auxiliary aids and services where such aids and services are requested, and are necessary to ensure equally effective communication, including without limitation, at public meetings and administrative hearings. Examples of such aids or services for disabled individuals who are deaf or hard of hearing include qualified interpreters; notetakers; real-time captioning; written materials; assistive listening systems; open or closed captioning; Teletypewriters (TTYs) or Telecommunication Devices for the Deaf (TDDs); and exchange of written notes (if the communication is not complex). Examples of such aids or services for disabled individuals who are blind or low vision include qualified readers; audiotapes; Braille; or large print materials; audio-descriptions of Power Point or video presentations; and assistance in locating items.

Examples of such aids or services for individuals with a speech disability include TTYs and computer terminals (take turns typing back and forth (if the communication is not complex)).

(b) In considering requests for auxiliary aids and services, the Town shall give primary consideration to the choice of auxiliary aid or service requested by the disabled person, and shall seek to provide such aid or service unless it determines that: (1) there is an equally effective way to communicate; or (2) such aid or service will result in a fundamental alteration in the program, or an undue financial or administrative burden.

[*History*: ORD. 689, 3/10/10]

1.02.390 Request for Reasonable Accommodations - Application Requirements.

(a) *Application.* A request for reasonable accommodation shall be initiated by submitting to the appropriate Department Director a completed application form, signed by the disabled individual or authorized agent, containing the following information:

(1) The applicant's name, address and telephone number;

(2) The basis for the claim that the individual is considered disabled under the Acts;

(3) The Town service, program, or activity in connection with which access through a reasonable accommodation is being requested; and

(4) An explanation of why the reasonable accommodation is necessary to make the Town service, program or activity accessible to the individual.

(b) *Request for Auxiliary Aid for Public Meeting*. Notwithstanding subsection (a), requests for reasonable accommodations involving the provision of auxiliary aids or services in connection with a public meeting or hearing must be made to the ADA Coordinator at least 2 business days in advance of the meeting or hearing.

(c) *Request Related to Land Use/Entitlement.* Notwithstanding subsection (a), if the request for reasonable accommodation is being made in connection with a development project or some other land use or zoning related entitlement for which planning approval is required (such as a use permit, variance, design review permit, zone change, general plan amendment or subdivision), then the applicant shall submit the request for accommodation to the City Planner pursuant to Section 5.15.050, *et seq.* of this Code.

[*History*: ORD. 689, 3/10/10; ORD. 693, 9/8/10]

1.02.400 Role and Duties of ADA Coordinator.

(a) *Request Filed with ADA Coordinator.* A request for reasonable accommodation filed with the ADA Coordinator shall be deemed filed with the appropriate Department Director, and the ADA Coordinator shall direct the request to the appropriate Department Director.

(b) *Assistance with Preparation of Request*. The ADA Coordinator may assist any person requesting reasonable accommodation with the preparation and presentation of his or her request. The ADA Coordinator shall assist any person with a disability in submitting a request

for reasonable accommodation, or an appeal from a denial of the same, through an alternative method where the individual is unable to submit the request as required above because of his/her disability.

[*History*: ORD. 689, 3/10/10; ORD. 693, 9/8/10]

1.02.410 Findings and Decision.

(a) *Consideration of Request*. In considering whether to grant or deny a request for a reasonable accommodation, the Department Director 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 Town service, program or activity, 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 the Town service, program or activity available to an individual with a disability.

(3) Whether there is an alternative accommodation which may provide an equivalent level of benefit. However, the Department Director shall give primary consideration to the accommodation requested by the applicant, and shall endeavor to provide the requested accommodation, unless the Town's alternative will provide an equivalent level of benefit and the accommodation requested would fundamentally alter the nature of the program, service, or activity, or result in an undue financial or administrative burden.

(4) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the Town.

(5) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of the Town service, program or activity. If the Department Director 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.

(c) *Conditions of Approval*. In granting a request for reasonable accommodation, the Department Director may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required in subsection (b) of this section.

[*History*: ORD. 689, 3/10/10; ORD. 693, 9/8/10]

1.02.420 Appeal of Determination.

A determination by the Department Director to grant or deny a request for reasonable accommodation may be appealed in accordance with Section 1.02.430 of this Code.

[*History*: ORD. 689, 3/10/10; ORD. 693, 9/8/10]

1.02.430 ADA Grievance Procedures; Appeal from Denial of Request for Reasonable Accommodation.

(a) *Appeal from Denial of Request for Reasonable Accommodation*. An appeal from a denial for a request for reasonable accommodation made under Section 1.02.390, or Section 5.15.010, *et seq*. of this Code shall be considered a complaint within the meaning of this Section and processed in accordance with this Section.

(b) *Filing a Grievance Complaint*. Any individual may file a written complaint alleging that the Town has discriminated against him or her on the basis of his or her disability in the provision of its services, activities, facilities or programs. The complaint shall be filed with the City Manager no later than 60 days from the date that the alleged discrimination occurred. If a complaint is based on the denial of a requested reasonable accommodation, the date that the alleged discrimination occurred shall be the date that the requested accommodation was denied.

(c) *Incomplete Complaint.* The complaint shall contain all information necessary to allege that the discrimination occurred. If the complaint fails to contain all necessary information, the City Manager shall notify the complainant in writing of any additional information that is needed to complete the complaint within fifteen (15) days of receiving it. If the complainant fails to complete the complaint form following notice from the City Manager, the City Manager shall close the complaint without prejudice.

(d) *Response to Complaint.* Within fifteen (15) calendar days after receipt of a complete complaint, the City Manager shall contact the complainant to discuss the complaint and possible resolutions. The City Manager shall provide the complainant with a written response determining whether the alleged discrimination has occurred, and offering options for resolution of the complaint, where applicable, within thirty (30) calendar days of the meeting. This deadline is not mandatory, and may be extended where necessary for the City Manager to work with other Town staff to formulate alternative resolution options by providing written notice to the complainant. The written notice shall inform the complainant of the amount of additional time needed and estimated date of decision.

(e) *Appeal.* If a complainant contests the City Manager's response, or contends that the options for resolution will not satisfactorily resolve the complaint, he or she may appeal the response to the City Council in accordance with Section 1.02.270 of the Colma Municipal Code.

(f) *Document Retention*. The Town shall keep all written complaints received pursuant to this Section; all Town written responses to those complaints; and all related written appeals and written appeal responses, for no less than three (3) years following their submission to the respective party.

(g) *Responding to Requests for Structural Improvements*. In responding to complaints regarding structural improvements, the City Manager is limited to the funds in established Capital Improvement Projects and other miscellaneous funds. In the event that these allocated funds are insufficient to fund the improvement, already allocated, or otherwise inappropriate for the use the complainant is requesting, the City Manager shall direct the ADA Coordinator to include the requested improvements in the Town's ADA Transition Plan and the City Council shall prioritize and schedule the improvements as it deems appropriate.

(h) *Accessibility Accommodations*. If a complainant is unable to submit a written complaint or appeal under this Section as a result of his or her disability, the Town shall assist a complainant in completing the complaint form or submitting a complaint or appeal through an alternative format, such as a personal interview, or tape recording, upon request. Similarly, the Town shall provide the responses required by this Section in alternative accessible formats such as large print, Braille, or audio tape, where necessary to accommodate a complainant with a disability upon request.

(i) *Not Exclusive or Required*. The use of the grievance procedure set forth in this Section does not preclude filing a complaint of discrimination with any appropriate state or federal agency, and is not a prerequisite to the pursuit of other legal remedies.

[*History*: Ord. 693, 9/8/10]

1.02.440 [Reserved.]

Division Seven – Proposition 218 Protest Procedures

1.02.450 Purposes.

The purposes of this ordinance are to establish procedures under Article XIII D, section 6 of the California Constitution for the completion, filing and tabulation of written protests against proposed new or increased property-related fees or charges, and to assist the Town in complying with the procedural requirements for determining whether a majority protest exists for purposes of Proposition 218 (hereinafter referred to as the "Prop 218 Majority Protest Process").

1.02.460 Definitions.

(a) "Majority protest" means that Protests (as defined below) are submitted, and not withdrawn, by a majority (50% +1) of property owners or tenants of those parcels subject to the proposed rates.

(b) "New Rate" means the imposition of a new property-related fee or charge or an increase in a property-related fee or charge.

(c) "Noticing period" means the period from the mailing of the Notice of Public Hearing described in section 1.02.460 to the close of the public hearing.

(d) "Owner" means the owner of record, as shown on the records of the County Record,

and the owner's authorized representative. If the owner of a parcel is a partnership, joint tenancy, or a tenancy in common, a Protest may be filed by any of the general partners, joint tenants, or tenants in common.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.470 Overview.

(a) Proposition 218 requires that, prior to establishing a new or increased property-related fee or charge, the Town provide a written notice of public hearing to the record owner of each parcel upon which the fee or charge will be imposed and to each tenant directly responsible for the fee or charge.

(b) The notice must contain, at a minimum, the following information: (1) the amount of the fee or charge; (2) the basis upon which the new or increased fee was calculated; (3) the reason for the new or increased fee; (4) the date, time, and location for the public hearing on the new or increased fee; and (5) the right of property owner to file a "written protest" to the new or increased fee anytime prior to the conclusion of that hearing.

(c) At least 45 days prior to the public hearing, the notice must be mailed to each property owner and tenant directly responsible for the fee or charge, and posted on the three official bulletin boards of the Town.

(d) The City Council must conduct a public hearing at the date, time, and location specified in the notice (which date cannot be less than 45 days after the notices have been mailed), and must determine whether there is a "majority protest" against the rate increase. If the City Council finds that there is a "majority protest" then the Town may not adopt the new or increased rate.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.480 Responsible Official.

The City Clerk will officiate over the 218 Majority Protests Process for the Town. These procedures will be kept on file at the public information counter in the office of the City Clerk.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.490 Persons Who May Submit Written Protests.

Any owner of an assessor's parcel subject to the proposed New Rates, and any tenant directly liable to pay the New Rates, may file a written protest against the proposed New Rates ("Protest"). If the owner of the parcel is a partnership, joint tenancy or tenancy in common, a Protest may be filed by any of the general partners, joint tenants or tenants in common. However, only one Protest will be counted per parcel regardless of the number of individual Protests filed.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.500 Contents of Written Protests.

(a) In order to be counted, the Protest must be in writing and must include the following information:

(1) The identification of the property, by address or assessors parcel number;

(2) The name of the property owner;

(3) The signature of the owner, or an authorized representative of the owner, or a tenant directly liable to pay the property-related charge; and

(4) A statement of protest.

(b) By signing the Protest, the property owner or tenant is verifying to the truth and accuracy of the information contained in the Protest.

(c) Only written Protests that contain all of the information stated in paragraph (c) above, and are delivered to the City Clerk before the close of the Public Hearing, in one of the manners described below, will be counted and tabulated for purposes of determining whether a majority protest exists.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.510 Return of the Protest.

(a) Protests may be delivered in any of the following ways:

(1) Sent in a fully prepaid and sealed envelope addressed to the City Clerk, Town of Colma, 1198 El Camino Real, Colma, California 94014, via United States Mail or a nationally recognized courier, and received by the City Clerk by 4:30 PM on the date of the public hearing on the proposed New Rates; or

(2) Hand-delivered, in person, to the City Clerk, at the Public Hearing on the proposed rates, provided that the delivery is before the close of the Public Hearing on the proposed New Rates.

(b) Protests by telephone, fax, email or any means other than specified in this resolution will not be accepted.

(c) The Town makes no representation as to whether the public portion of the Public Hearing will be concluded on the date scheduled for commencement of the Public Hearing or continued to a later date.

(d) The Town will retain any Notice that is returned to it as "undeliverable" by the U. S. Postal Service for the duration of the proceedings on the proposed rates.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.520 Withdrawal of Protest.

(a) After filing a Protest with the Town, the person who signed the Protest may withdraw the Protest by submitting a written notice of withdrawal in person to the City Clerk in the manner prescribed in section 5 for submittal of a protest. The notice of withdrawal must be submitted to the City Clerk in a sealed envelope with the words "Withdrawal of Protest Against Proposed ___ [New Rates]" written on the front of the envelope.

(b) The City Clerk will retain all withdrawn Protests and will clearly indicate on the face of such Protests that they have been withdrawn.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.530 Tabulation of Protests at the Public Hearing; Announcement.

(a) Protests may be tabulated periodically during the noticing period at the office of the City Clerk, 1198 El Camino Real, Colma, California.

(b) The City Clerk shall perform the final tabulation of Protests at the Public Hearing following the close of the public comment portion of the Public Hearing. In the event the City Clerk cannot complete the tabulation of the protests before the conclusion of the City Council meeting, the City Council may continue the action to impose or not impose the Fee to another City Council meeting date. The continuation of the item to another meeting does not reopen the public hearing on the proposed Fee.

(c) Only Protests which are timely filed and contain all required information as specified in section 1.02.500 shall be counted for purposes of determining whether a majority protest exists. Protests that are incomplete (i.e., do not contain all required information), or that are received after the close of the Public Hearing shall not be counted by the City Clerk.

(d) The City Clerk's decision regarding the validity of a protest or a request for the withdrawal of a protest shall constitute a final action of the Town and shall not be subject to any internal appeal.

(e) Protests withdrawn in accordance with these procedures shall not be counted by the City Clerk.

(f) The City Clerk shall only count one Protest per assessor's parcel subject to the proposed rates for purposes of determining whether a majority protest exists. Thus, if more than one Protest is filed for the same parcel, e.g., by the property owner and one or more tenant directly liable to pay the property-related charge for the property, the City Clerk shall only count one Protest for the identified parcel.

(g) Comments received or filed in support of the proposed rate increases have no significance and are not considered in determining whether a majority protest exists; only Protests are counted. In other words, if a person who is so eligible files a Protest as to a parcel, the Protest will be counted as a Protest even if a different eligible person submits a statement in support of the proposed rates. For example, if a parcel has two property owners, one of whom files a Protest and one of whom files a written statement in support of the rate

increase, the Protest is counted as one Protest and its weight is not impacted by the statement in support of the rate increase.

(h) A majority protest exists if valid written protests are timely submitted and not withdrawn by the Owners of, or Customers with respect to, a majority of the identified parcels. If there is a majority protest against the imposition of the proposed rates, the City Council shall not impose the New Rates

(i) The City Clerk shall announce the results of the Protest tabulation after all Protests have been counted and shall enter the results into the minutes of the City Council meeting.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.540 Confidentiality; Public Records.

(a) Each written Protest shall be kept confidential until it is unsealed by the City Clerk to be tabulated. Once unsealed, the Protests shall be made available for inspection and copying by the public.

(b) The Town shall keep all written Protests for a minimum of two years following the Public Hearing.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]

1.02.550 Resolution of Disputes.

In the event of a dispute regarding whether the signer of a Protest is the owner of the parcel to which the Protest applies or a tenant directly liable to pay the cost of service at that parcel, the Town will resolve the dispute based on the last equalized assessment roll and any evidence regarding ownership of the parcel or liability for the payment of property-related charges submitted to the Town prior to the conclusion of the Public Hearing. The Town is under no duty to obtain or consider any evidence as to the disputed issue and the Town's determination will be final and conclusive.

[*History*: ORD. 702, 9/14/11; ORD. 703, 10/12/11]