

Staff notes to revisions are in **Comic Sans** font

Chapter 18.12

DEFINITIONS

Staff note to 18.12.080: In 2005, the Town revised the height requirements throughout the zoning code to measure height to existing or finished grade. However, the Town did not correct the definition of building height. This amendment corrects that omission.

18.12.080 Building height. “Building height” means the vertical distance as measured in a straight line from any point ~~of the roof to~~ to either existing or finished grade.

18.12.130 Floor area ratio. “Floor area ratio” means the floor area of the building or buildings on a lot, divided by the area of that lot. For the purpose of determining the allowable floor area of a lot, the floor area is the sum of the gross horizontal areas of the several floors of the building or buildings measured from the exterior faces of the exterior walls. Floor area also includes mezzanines, finished basements and attics, garages, carports, porches which are screened or otherwise enclosed, the entirety of porches which have a depth greater than ten feet, stairwells and elevators on every level, and ~~other~~ detached structures which are accessory to a dwelling.

~~———— 18.12.315 Slope. “Slope” means percent slope determined by the difference between the minimum and maximum elevations, divided by the horizontal distance between these respective elevations measured along a line perpendicular to the natural contours, times one hundred. The measurement of slope shall be determined by the town engineer.~~

18.12.315 Slope. The average slope shall be calculated using the following formula:

$$S = (100 \times I \times L) \div A$$

Where “S” is the average percent of slope, rounded off to the nearest one percent; “I” is the contour interval in feet; “L” is the summation of length of the contour lines in feet less the length of the average contour line, i.e., L = total length of contour lines – total length of contour lines divided by total number of contour lines; and “A” is the area in square feet. The Town staff may establish minimum standards for topographic surveys.

Chapter 18.39

HILLSIDE LOT REGULATIONS

18.39.010 Purpose. The purpose of this chapter is as follows:

- (1) Ensure that development is consistent with the goals, policies and criteria of the general plan;
- (2) Protect and preserve public and private open space as a limited and valuable resource;
- (3) Preserve significant features of the natural environment including watersheds, watercourses, canyons, knolls, ridgelines and rock outcroppings and minimize disturbance to the natural terrain;
- (4) Protect significant native vegetation and wildlife;
- (5) Limit development to a level consistent with available public services and road access that can be reasonably provided to and within the parcel;
- (6) Ensure that development will not create or increase fire, flood, slide or other hazards to public health and safety;
- (7) Protect the health, safety, general welfare and property of people in the vicinity of steep hillside building sites;
- (8) Ensure that development will not create or increase the potential of major financial loss to the town or any other governmental entity through claim or litigation.
- (9) Reduce the visual impacts of construction on hillsides.

This chapter establishes procedures and standards for the review of land divisions and the construction of buildings, structures and improvements necessary to meet this purpose.

Discussion Item related to sections 18.39.020(b) and 18.39.025 : The Town should consider the existing exceptions to the hillside regulations and if they should be eliminated or retained. An option would be to eliminate the exceptions for smaller additions, requiring an addition of any size to comply with the HLO (or a variance would be required). The Town could have a reduced application fee for smaller hillside projects (the current fee is \$1,250, which does not include the design review fees).

18.39.020 Chapter application. (a) This chapter shall apply to hillside areas. Hillside areas are defined as parcels which have a slope of thirty percent or greater or are wholly or partially within Hazard Zones 3 or 4 as identified on the town slope stability map. An application for a hillside lot review is required for any development or subdivision of a hillside lot.

(b) A hillside lot application is also required on improved parcels having thirty percent or greater overall natural or building site slope, or containing Hazard Zones 3 or 4, for new buildings and additions to existing buildings when the additional square footage totals twenty percent or more of the original primary structure square footage (excluding the floor area of covered parking garage) or more than one thousand square feet, whichever is less, and for any project on a lot that previously received a hillside lot application approval. A hillside lot application is also required for staged, phased or cumulative improvements that exceed these thresholds.

(c) A hillside lot application is also required for any land division which has a natural slope or building site slope of thirty percent or greater for any existing or proposed lots.

(d) No building permit for buildings or structures shall be issued for hillside areas, and no map of any proposed subdivision containing hillside areas shall be approved, until a hillside lot application is approved by the town consistent with the requirements of this chapter.

18.39.025 Exceptions. This chapter shall not apply to additions to existing buildings when the additional square footage totals less than twenty percent of the original primary structure square footage (excluding the floor area of covered parkinggarage) or less than one thousand square feet, whichever is less, unless the project is on a lot that previously received a hillside lot application approval or if the project involves a demolition permit. A hillside lot application is required for staged, phased or cumulative improvements that exceed these thresholds.

18.39.030 Submittal requirements. (a) An applicant shall file an application for hillside lot review with the planning department on forms prepared by the town planner. The applicant shall pay a fee as set by the town council.

(b) Every hillside lot application shall include drawings, plans, reports, specifications and graphic or written material as required by the town planner or town council to clearly and accurately describe the proposed work, its effect on the environment and its relationship to existing improvements. Standard submittal requirements will be prepared by the town planner. Additional information may be required by the planner or town council. The town engineer will review all applications to determine the appropriate level of geotechnical report necessary to evaluate the safety of the proposed improvement.

(c) Independent evaluation and report by an architect, landscape architect, registered engineer or similarly qualified individual may be required by the town planner or council to assist the town in evaluating the application. This consultant will be selected by the town and retained at the applicant's expense.

(d) Any necessary review by a certified engineering geologist shall include an evaluation of the risk to adjoining property or structures by the proposed development, including the construction of roads and other improvements, or by the condition of the property after development has occurred. The review shall evaluate if the condition of adjacent property indicates any significant risk of future damage to proposed structures. The review shall discuss the need for earth repair to mitigate soils conditions on the site and the effects of this repair on environmental concerns such as vegetation removal or massive grading.

18.39.040 Review authority. The town council will conduct the hillside lot review provided for by this chapter.

18.39.050 Hearing. A hillside lot application will be heard by the town council at a public meeting. The town council will review the application at its next available meeting following a determination by the town planner that the application is complete. Town staff will have a notice of the public hearing published in a newspaper of general circulation in the town at least ten days before the date of the hearing. The town clerk will mail written notice at least ten calendar days prior to the hearing to the applicant and to all owners of property within five hundred feet from the exterior boundaries of the project site.

18.39.060 Approval--Special conditions and findings. (a) The town council may approve, conditionally approve or deny an application for hillside lot review. The town council shall include conditions necessary to meet the purpose of this chapter and for substantial compliance with the hillside lot design standards set forth in this chapter. The council may adopt by resolution standard conditions for all projects to meet.

(b) The town council shall make the following findings in approving any project:

(1) Failure to secure a building permit and/or commence construction will cause hillside lot approval for development of an individual lot to expire one year from the date of approval without further notice.

(2) A hillside lot approval for a land division shall automatically expire two years after its approval by the council unless a final/parcel map has been recorded.

(3) The project is consistent with the Ross general plan and zoning ordinance.

(c) The town council shall deny any project for which it cannot make findings required in this section.

~~18.39.070 Denial of incomplete or inactive applications. Consistent with state law, the town planner may administratively deny without prejudice any application which remains incomplete or inactive for a period of greater than ninety days or is continued at the applicant's request for more than sixty days.~~ State law supersedes this provision and staff recommends deletion.

~~18.39.080 Administrative exemption. The town planner may administratively exempt from hillside lot review any project which will not result in environmental impacts and which is consistent with the intent and design standards of this chapter and with zoning ordinance regulations. Such administrative exemption may include, but is not limited to, the improvement of existing unfinished attic or basement space not requiring excavation, grading or filling.~~ Staff recommends deletion of this administrative exception.

Staff is proposing to replace the existing HLO floor area thresholds with a single floor area formula that gradually reduces the floor area as the lot slope increases. This formula was developed by Ross resident Ken Frankel, Ph.D., and we refer to it as the "Frankel FAR Formula." Staff will include examples of floor areas if lot area over 3 acres is included.

OPTION #1: Make the HLO Floor Areas firm development requirements. Approval of a variance would be necessary to exceed the HLO floor area.

18.39.070 Floor area. The maximum floor area shall be limited based on the following formula: $(0.13 - 0.0015S)A - 0.005 (A^2/43,560)$, where A is the Lot Area in square feet, up to a maximum of 3 acres, and S is the slope of the lot.

18.39.080 Minimum yard requirements.

<u>Building</u> <u>Square Feet</u>	<u>Front</u> <u>Setback</u> <u>(feet)</u>	<u>Side</u> <u>Setback</u> <u>(feet)</u>	<u>Rear</u> <u>Setback</u> <u>(feet)</u>
<u>0-3500</u>	<u>25</u>	<u>25</u>	<u>40</u>
<u>3501+</u>	<u>25</u>	<u>45</u>	<u>70</u>

OPTION #2: Maintain HLO Floor Areas as a Guideline (define "guideline" in code):

18.39.090 Hillside lot design standards/guidelines. ~~Hillside lots shall meet the requirements of the base zoning district with which this chapter is combined. The following standards shall be in addition and shall govern if conflicts arise.~~ Hillside lot projects shall be in substantial compliance with the following standards/guidelines. The town council may deny an application for failure to comply to any single guideline/criterion:

(a) Relationship to the Site.

~~(1) — The following hillside slope/intensity guidelines are recommended for all hillside lots:~~

<u>Slope</u>	<u>Up to and</u> <u>Including</u> <u>Acres</u>	<u>Allowable</u> <u>Build Sq. Ft.</u> <u>for Each</u> <u>Full Acre</u>	<u>FAR Max.</u> <u>for Each</u> <u>Acre or</u> <u>Portion</u>	<u>Running Total</u> <u>of Building</u> <u>Sq. Ft.</u> <u>Allowed</u>
30-35%	1	3,485	8%	3,485
	2	3,049	7%	6,534
	3	2,614	6%	9,148
36-40%	1	3,049	7%	3,049
	2	2,614	6%	5,663
	3	2,178	5%	7,841
41-45%	1	2,614	6%	2,614
	2	2,178	5%	4,792
	3	1,742	4%	6,534
46-50%	1	2,178	5%	2,178
	2	1,742	4%	3,920
	3	1,307+	3%	5,227
≥51%	1	1,742	4%	1,742
	2	1,307	3%	3,049
	3	871+	2%	3,920

~~These guidelines relate FAR to parcel slope and parcel size. The guideline FAR percentages are applied based on actual lot sizes for lots between zero and one acre, one and two acres, and two and three acres, to a maximum of 3 acres. A parcel of .5 acres with a slope between thirty percent and thirty-five percent, for example, would be recommended for a total floor area of (.5)(3,485) = 1,743 square feet. A parcel of 1.5 acres with a slope between thirty~~

~~percent and thirty-five percent, for example, would be recommended for a total floor area of $3,485 + .5(3,049) = 5,010$ square feet.~~

~~Development above guideline floor area levels may be permitted if the town council finds that such development intensity is appropriate and consistent with this chapter. Factors which could support such a finding include, but are not limited to
, excellence of design and site planning which minimizes environmental impacts.~~

(1) The permitted floor area on a hillside site is limited based on the following formula: $(0.13 - 0.0015S)A - 0.005 (A^2/43,560)$, where A is the Lot Area in square feet, up to a maximum of 3 acres, and S is the slope of the lot.

Where a residence is to be constructed or improved on a portion of a lot that has a lower average slope than the entire lot, a property owner may elect to calculate the slope, floor area ratio, and maximum floor area for the two sections of the parcel. The sum of the two calculated floor areas would be the maximum floor area for the lot. The sections must be divided by no more than three connected straight lines and all of the existing and proposed floor area must be located within the more level section of the lot.

The impacts associated with construction on undeveloped hillside land are significant and applicants should adhere to the guideline floor area. Where a previously disturbed hillside lot is redeveloped, the town council may allow floor area above the guideline floor area if appropriate.

Factors which could support a floor area above the guideline floor area could include:

- (i) Existing development that exceeds the guideline floor area.
- (ii) Unusual site topography, such as a lot with a level building area that is not visually prominent and would minimize construction impacts.
- (iii) To encourage the transfer of development rights from hillside lots that have been preserved in their natural state.

(2) [INCLUDE LARGER SETBACK PROVISIONS, IF DESIRED (SEE ABOVE)]

(3) Grading, cutting and filling and retaining walls shall be minimized for hillside development by using building techniques which reflect the natural topography of the site. Graded slopes shall not exceed 2:1. Individual retaining walls shall not exceed a height of eight feet. The aggregate height of retaining walls shall not exceed eighteen feet for any particular slope. Upslope walls up to four feet in height may be constructed of pressure-treated timber. All walls up to six feet in height may be constructed of reinforced concrete block. All other walls shall be constructed of reinforced concrete.

(43) Building design and the placement of driveways shall conform to the natural contours of the site.

(b) Architecture.

- (1) Architectural style shall complement the form of the natural landscape.
- (2) Designs shall be well-articulated to minimize the appearance of bulk.
- (3) Materials and colors shall be of subdued tones to blend with the natural landscape.

(4) A building should be in scale with its surroundings and the town council may consider limiting floor area to account for tall wall heights and other volumes that exaggerate the height, bulk and mass of a building but are not included in floor area.

(5) Elevated and ground level decks and patios impact the exterior appearance of a structure and may affect the privacy of adjoining sites. Decks, particularly elevated decks, should enhance the appearance of a house and be of a scale and style which are compatible with the house, adjacent development, and the surroundings. The town council may limit deck and patio area based on considerations of aesthetics, potential for noise, bulk and mass, privacy of adjacent sites, and visibility.

(c) Landscape Architecture.

(1) Native shrubs and trees shall be retained on hillside terrain wherever possible to help reduce erosion and preserve the character of the hillside environment. Newly introduced landscaping shall be of the character-and quality identified on the town hillside plantings list.

(2) Drought and fire-resistant plantings are recommended.

(3) Native vegetation and trees shall be protected from damage during construction.

(4) A drip irrigation system is required for hillside landscaping.

(5) Landscaping shall preserve the penetration of sunlight to neighboring properties.

(6) Small patios, terraces and pathways are allowed. They shall be porous in nature wherever possible.

(7) Fences and walls enclosing a parcel are not recommended. All fences and walls are subject to review as part of the landscaping plan or design review as mandated.

(d) Views.

(1) Hillside designs shall protect views to the site and those viewsheds of neighboring property owners.

(2) No building shall be located on a ridge. Dedication of ridgetop land may be required as a condition of approval of a development plan.

(e) Public Safety.

(1) Class A roofing assembly is required.

(2) The fire official shall ensure the adequacy of the water supply for fire fighting purposes by requiring water mains and the upgrade of fire hydrants as necessary.

(3) Sprinkler systems shall be provided as required by the fire official.

(4) Clearance of brush or vegetative growth from structures and driveways shall be in accordance with the California Fire Code and approved by the fire official.

(5) Defensible spaces around each building and structure shall be created in accordance with the vegetation clearance requirements prescribed in California Public Resource Code 4291 and California Government Code 51182.

(6) Development should adhere to the wildland urban interface building standards in Chapter 7A of the California Building Code.

(f) Geology.

(1) All newly created slopes shall be planted or otherwise protected from the effects of storm runoff and erosion within thirty days after completion of grading.

(2) Development shall avoid unstable areas on the site, such as slides, severe creep

areas and debris flows. Locating improvements in such areas shall be grounds for project denial. All unstable areas on the site, such as slides, severe creep areas and debris flows, both in the immediate area of the proposed development and elsewhere on the site including any roadways traversing undeveloped areas, shall be repaired to the satisfaction of the town.

(3) Prior to any approval of a final subdivision map, all slides to be repaired shall be bonded to guarantee the repair during the normal construction of subdivision improvements. In the case of parcel maps, bonding shall be provided prior to the recordation of the parcel map.

(4) All slide repair work shall be accomplished under the direction of a registered civil engineer specializing in soils engineering or a certified engineering geologist. At the conclusion of work and prior to the issuance of a building permit, the engineer or geologist shall submit written confirmation to the town that all work accomplished under his jurisdiction is acceptable.

(g) Hydrology.

(1) Residences and accessory structures shall not traverse, encroach or impede a natural watercourse or drainage swale.

(2) ~~All new development shall provide drainage improvements necessary to mitigate the runoff created by disturbance to the watershed.~~ Site drainage shall be designed by a licensed engineer. The plan shall be designed to produce no net increase in peak runoff from the site compared to pre-project conditions. Plans should comply with Design Review criteria 18.41.100(t) Low Impact Development for Stormwater Management.

~~(3) Site drainage shall be designed by a licensed engineer and shall conform to current stormwater discharge practices in Marin County.~~

(h) Circulation.

(1) The design of the circulation system shall provide for an adequate transition and maximum compatibility with adjoining patterns of development and open space.

(2) The design of the circulation system shall follow the natural contours of the land.

(3) The points of ingress and egress to a street shall have a minimum visual clearance commensurate with adequate safety requirements. In any event, the visual clearance shall not be less than one hundred feet.

(4) All roadway improvements shall meet the specifications determined by the director of public works and town engineer.

18.39.100 Noncompliance. Failure to comply in any respect with the conditions or approved plans constitutes grounds for the town to immediately stop work related to the noncompliance until the matter is resolved. Such violation will be subject to the enforcement penalties and procedures of Chapter 18.64 of this code.

18.39.110 Expiration. (a) Failure to secure a building permit and/or commence construction will cause hillside lot approval for development of an individual lot to expire one year from the date of approval without further notice. The town council may grant an extension of up to one year from the original expiration date upon determining that the findings made in the original approval remain valid. An application for an extension of time must be filed with the planning department prior to the original expiration date.

(b) A hillside lot approval for a land division shall automatically expire two years

after its approval by the council unless a final/parcel map has been recorded. The town council may grant a time extension of up to one year from the original expiration date upon determining that the findings made in the original approval remain valid. An application for an extension of time must be filed with the planning department prior to the original expiration date.

(c) A second extension of up to one year may be granted upon submittal of a request prior to the expiration of the first extension if the council determines that the original findings remain valid.