

# TOWN OF ROSS

## ORDINANCE NO. 620

### AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF ROSS AMENDING THE TOWN HILLSIDE DEVELOPMENT REGULATIONS

The Town Council of the Town of Ross does ordain as follows:

SECTION 1: Title 18, Chapter 18.12, Section 18.12.080 is amended to read as follows:

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

SECTION 2: Title 18, Chapter 18.12, Section 18.12.130 is amended to read as follows:

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, stairs and elevators on one floor, and other detached structures which are accessory to a dwelling.

SECTION 3: Title 18, Chapter 18.39, is amended to read as follows:

#### Chapter 18.39

#### HILLSIDE LOT REGULATIONS

18.39.005 Title. This ordinance shall be known and may be cited as the Hillside Lot Ordinance.

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

- (a) Ensure that development is consistent with the goals, policies and criteria of the general plan;
- (b) Protect and preserve public and private open space as a limited and valuable resource;
- (c) Preserve significant features of the natural environment including watersheds, watercourses, canyons, knolls, ridgelines and rock outcroppings and minimize disturbance to the natural terrain;
- (d) Protect fragile steep slopes, creeks, significant native vegetation, wildlife and other environmental resources;

- (e) Limit development to a level consistent with available public services and road access that can be reasonably provided to and within the parcel;
- (f) Ensure that development will not create or increase fire, flood, slide or other hazards to public health and safety;
- (g) Protect the public health, safety and general welfare and the property of people in the vicinity of steep hillside building sites;
- (h) 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.
- (i) Reduce the visual impacts of construction on hillsides and encourage building designs compatible with hillside areas.

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.

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:
  - (1) All new buildings, building relocations, and for all exterior remodeling resulting in additions, extensions or enlargements to existing buildings exceeding two hundred square feet of new floor area, including enclosing existing open areas;
  - (2) The construction of any retaining wall greater than forty eight inches in height as measured from bottom of footing to top of wall or any terraced retaining walls totaling more than forty-eight inches in height;
  - (3) Retaining walls totaling more than one hundred linear feet;
  - (4) Any activity or project resulting in more than fifty cubic yards of grading or filling, whether or not a building permit is required;
  - (5) Any construction, improvements, grading/filling or other site work within twenty-five feet of a creek, waterway or drainageway, whether or not a building permit is required; and
  - (6) 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.

18.39.030 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 and notice requirement. The town council shall review the hillside lot applications required by this chapter at a public hearing. At least 10 days prior to the hearing a public notice shall be posted in at least three public places within the town, including the project site, and mailed to the property owner and to all owners of property as shown on the latest equalized assessment roll within 500 feet of the exterior boundary of the property.

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 to approve a hillside lot

application:

- (1) The project complies with the stated purposes of this Chapter;
- (2) The project complies with the development regulations of Section 18.39.090, or that the Town Council has considered and approved a variance; and
- (3) The project substantially conforms to the hillside development guidelines in Section 18.39.090.

18.39.090 Hillside lot design regulations and guidelines.

This section provides both regulations and guidelines for hillside development. Regulations are identified by use of the term “shall” and compliance is mandatory. Guidelines are identified by use of the term “should” and compliance is not mandatory but is strongly recommended. The Town Council may deny an application where there are substantial inconsistencies with one or more guidelines in a manner that is counter to the purposes of this ordinance.

If any provision of this ordinance is in conflict with another area of the municipal code, the more restrictive regulation, guideline or policy shall apply.

(a) Maximum Floor area. The maximum floor area shall be limited based on the lot slope and lot size using the following formula:

$$\text{Maximum floor area} = (0.15 - 0.002S)A - 0.005 (A^2/43,560)$$

A = lot area in square feet, up to a maximum of 3 acres

S = slope of the lot, up to a maximum of 55%

For example, a 15,000 square foot lot with a slope of 33 percent would be permitted up to 1,234 square feet of floor area.

(b) Building setbacks. Minimum yards should be provided as follows. Reduced yard requirements may be approved by the town council (to the yard requirements in the base zoning district) if warranted to further the purposes of this chapter, considering adjacent neighbor privacy. Such purposes could include preservation of significant trees, protection of creeks, or to allow a residence to be located on a level area of a site.

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

(c) Grading and retaining walls. Grading, cutting and filling and retaining walls should 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. Terraced retaining walls should be at least three feet apart to allow for screening vegetation. 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.

(d) Architecture.

- (1) Architectural style should complement the form of the natural landscape.
- (2) Designs should be well-articulated to minimize the appearance of bulk.
- (3) Materials and colors should be of subdued tones to blend with the natural landscape.
- (4) Building design and the placement of driveways should conform to the natural contours of the site.
- (5) 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.
- (6) 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.

(e) Landscape Architecture.

- (1) Native shrubs and trees should be retained on hillside terrain wherever possible to help reduce erosion and preserve the character of the hillside environment. Newly introduced landscaping shall blend with the site setting.
- (2) Drought and fire-resistant plantings are recommended.
- (3) Native vegetation and trees shall be protected from damage during construction.
- (4) An irrigation system is required to establish new hillside landscaping.
- (5) Landscaping should preserve the penetration of sunlight to neighboring properties.
- (6) Small patios, terraces and pathways are allowed. They should 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.

(f) Views.

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

(2) No building shall be located on a ridge.

(g) 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.

(h) 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. Projects plans should include repair of 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 as required by the town or project engineers.

(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 a building permit and the direction of a registered civil engineer specializing in soils engineering or a certified engineering

geologist. At the conclusion of work, the engineer or geologist shall submit written confirmation to the town that all work accomplished under his jurisdiction is acceptable.

(5) Erosion control measures and Best Management Practices (BMPs) shall be required for all development. Erosion control plans shall comply with the County of Marin stormwater regulations and shall meet the National Pollutant Discharge Elimination System (NPDES) permit requirements for Marin County.

(i) Hydrology.

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

(2) 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. Drainage plans should comply with Design Review criteria 18.41.100(t) Low Impact Development for Stormwater Management.

(j) Circulation.

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

(2) The design of the circulation system should 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.

18.39.120 Variances. Consistent with State law, an applicant may apply to the town council for a variance from any development regulation in this chapter, pursuant to Chapter 18.48 of this Title.

SECTION 4: CEQA Exemption. This ordinance is determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15308, as an action for the protection of the environment and that will not have any adverse impact on the environment.

SECTION 5: Severability. The Town Council hereby declares every section, paragraph, sentence, cause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 6: Inclusion in the Ross Municipal Code. It is the intention of the Ross Town Council that this Ordinance be made a part of the Ross Municipal Code and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intentions.

SECTION 7: Application to transitional projects. All pending projects for which a complete application was submitted and accepted by the Town prior to the effective date of this Ordinance shall be exempt from complying with the provisions of this Ordinance and shall comply with the development standards in effect at the time of the acceptance of the completed application. Projects with valid Town Council approval or for which a building permit has been issued prior to the effective date of this ordinance may be carried out with the development standards in effect at the time of approval, provided the permit or approval is valid and has not lapsed.

SECTION 8: This Ordinance shall go into effect on \_\_\_\_\_, 2010, and shall be published once within fifteen (15) days after its adoption in the Marin Independent Journal, a newspaper of general circulation in the Town of Ross.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Ross Town Council on the \_\_\_\_ day of \_\_\_\_\_, 2010, and was adopted at a regular meeting of the Ross Town Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2010 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Richard Strauss, Mayor

**ATTEST:**

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Gary Broad, Town Manager