

Chapter 15.50

TIME LIMITS FOR COMPLETION OF CONSTRUCTION\*

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\* Prior ordinance history: Ord. 469, 1989, 482, 548 and 579.

15.50.010 Short title. This chapter shall be known as the "Construction Completion Chapter." (Ord. 579 §1(part), 2003).

15.50.020 Purpose. It is the intent of this chapter to:

- (a) Implement the goals and purposes of the town of Ross general plan by maintaining the town's high quality and fragile natural environment and the existing small town qualities and feeling of the community.
- (b) Assure the safety of construction practices, structures, and other improvements, through encouragement of completion inspections on all construction requiring building permits.
- (c) Set and enforce reasonable time limits for the completion of all construction requiring building permits. (Ord. 579 §1(part), 2003).

15.50.030 Application. This chapter shall apply to all construction, including all additions, alterations, modifications, repairs, and improvements, which requires a building permit; hereafter referred to as "applicable work."

Any building permit issued prior to January 11, 2004, which has not been completed as of the adoption of this ordinance, shall be extended from the effective date of this ordinance based on the estimated project valuation for the time limits in Section 15.50.050 and, if not completed within said permitted time period, shall be subject to the penalties as provided in Section 15.50.070. (Ord. 601 (part) 2007; Ord. 579 §1(part), 2003).

15.50.040 Construction completion. For the purposes of this chapter, construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion. (Ord. 601 (part) 2007; Ord. 579 §1(part), 2003).

15.50.050 Time limits for construction completion. The maximum time for completion of construction shall not exceed the following:

(a) For new construction, the estimated value of which, as determined by the town building official, is less than or equal to five hundred thousand dollars, the maximum time shall be fifteen months from the issuance of a building permit.

(b) For new construction, the estimated value of which, as determined by the town building official, is greater than five hundred thousand dollars, the maximum time shall be eighteen months from the issuance of a building permit.

(c) For additions, alterations, modifications, repairs, and improvements, the estimated value of which, as determined by the town building official, is less than or equal to fifty thousand dollars, the maximum time shall be nine months from the issuance of a building permit.

(d) For additions, alterations, modifications, repairs, and improvements, the estimated value of which, as determined by the town building official, is greater than fifty thousand dollars and less than or equal to two hundred thousand dollars, the maximum time shall be twelve months from the issuance of a building permit.

(e) For additions, alterations, modifications, repairs, and improvements, the estimated value of which, as determined by the town building official, is greater than two hundred thousand dollars and less than or equal to five hundred thousand dollars, the maximum time shall be fifteen months from the issuance of a building permit.

(f) For additions, alterations, modifications, repairs, and improvements, the estimated value of which, as determined by the town building official, is greater than five hundred thousand dollars, the maximum time shall be eighteen months from the issuance of a building permit. (Ord. 579 §1(part), 2003).

15.50.060 Other time limits. No building permit shall be issued within nine months of final inspection or expiration of an antecedent building permit. (Ord. 579 §1(part), 2003).

15.50.070 Effect of failure to comply with time limits for construction completion.

(a) Upon failure of a property owner to complete construction by those time limits established in this chapter, the following penalties shall apply:

(1) For the first thirty days that the project remains incomplete there shall be no penalty.

(2) For the thirty-first through sixtieth days that the project remains incomplete, the town shall impose a penalty of two hundred dollars per day.

(3) For the sixty-first through the one hundred twentieth days that the project remains incomplete, the town shall impose a penalty of four hundred dollars per day.

(4) For the one hundred twenty-first day, and any additional days thereafter that the project remains incomplete, the town shall impose a penalty of one thousand dollars per day.

(b) Penalties, fees, and costs due to the town pursuant to this chapter are due each day as the penalties accrue.

(c) It is declared that any violation of the provisions of this chapter shall, in addition to any other remedy, constitute a public nuisance, and such nuisance may be abated as provided by law. (Ord. 579 §1(part), 2003).

15.50.080 Construction completion deposit. (a) Before a building permit may be issued, the property owner shall deliver to the building department a refundable deposit based on the estimated value of the work as determined by the Town Building Official. The deposit shall be as follows: 1) for projects with an estimated value of less than \$50,000, the deposit shall be five hundred dollars (\$500); 2) for projects with an estimated value between \$50,000 and \$500,000, the deposit shall be 2% of the estimated value; and for projects with an estimated value above \$500,000, the deposit shall be 3% of the estimated value.

(b) When construction is completed within the time limits provided herein, and after a final inspection has been made and approved by town staff, the construction completion deposit shall be refunded to the property owner.

(c) Upon failure of a property owner to complete construction by those time limits established in this chapter, the deposit shall be incrementally forfeited to the town. (Ord. 601 (part) 2007; Ord. 579 §1(part), 2003).

15.50.090 Appeal of penalties. (a) A penalty imposed pursuant to this section may be appealed to the town council on the grounds that the property owners were unable to comply with the construction time limit for reasons beyond the control of themselves and their representatives.

(1) For purposes of this section, the grounds for appeal shall include, but not be limited to: labor stoppages; acts of war or terrorism; and natural disasters.

(2) For purposes of this section, the grounds for appeal shall not include: delays caused by the winter-rainy season; the use of custom and/or imported materials; the use of highly specialized subcontractors; significant, numerous, or late design changes; access difficulties associated with the site; failure of materials suppliers to provide such materials in a timely manner; or by delays associated with project financing.

(b) An appeal of penalties made pursuant to this section shall be filed in writing with the town clerk within ten calendar days from the date of construction completion, with payment of an appeal fee as established by town council resolution. The town council will hold a hearing on the appeal and shall affirm, modify, or cancel the penalty.

(c) When appealing penalties assessed pursuant to this chapter, the appellant shall submit documentary and other evidence sufficient to establish that design decisions, construction drawings and documents, bids and construction contracts, permit applications, and compliance with all required permit conditions were undertaken in a diligent and timely manner. Required documentary and other evidence shall demonstrate to the town council's satisfaction that construction delays resulted from circumstances fully out of his or her control and despite diligent and clearly documented efforts to achieve construction completion within those time limits established in this chapter. Penalties made pursuant to this section shall not be modified or cancelled unless the evidence required in this section is submitted at the time of appeal.

(1) For the purposes of this section, documentary evidence shall include dated design contracts, date stamped plans, dated construction contracts and material orders, and proof of timely payment of any deposits or fees required pursuant to any of the forgoing items. (Ord. 579 §1(part), 2003).

15.50.100 Administration and enforcement. (a) All applicable work started after the effective date of the ordinance codified in this chapter shall be completed within the time limits provided herein. All applicable work in progress as of the effective date of the ordinance codified in this chapter shall be completed within the time limits, and shall be subject to those ordinances and construction completion requirements, in place at the time of such work's initiation.

(b) The full amount of construction completion penalties due the Town of Ross under Section 15.50.070 shall be due immediately upon project final and the Town's subsequent determination of the penalty amount. The Town shall notify the property owner by mail of the number of days the project remained unfinished beyond the length of the building permit and the resulting penalty amount owed the Town. Any penalty amount in excess of the construction completion deposit shall be paid within 30 days of the date of mailing the letter by first class mail to the property owner. Any penalty amount not paid within 30 days shall be subject to an additional 10% (ten percent) penalty on the unpaid balance remaining after this 30 period and monthly interest shall accrue on the unpaid balance and penalty amount after 30 days at an annual rate of 12% (twelve percent). Any property owner owing a construction completion penalty to the Town prior to the adoption of this ordinance shall be subject to said penalty and interest on the unpaid balance commencing 30 days after the date of the Town notifying them by a letter sent by first class mail of the penalty and interest.

(c) Any amount in excess of the sum deposited with the Town as a construction completion deposit and due to the town by property owner(s) as a result of violation of the provisions of this chapter, including all penalties and interest as in subsection (b) above, is a personal debt owed to the Town by the owner(s) of the subject property and, in addition to all other means of enforcement and collection, shall become a lien against the subject property, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. (Ord. 601 (part) 2007; Ord. 579 §1(part), 2003).