



**Agenda Item No. 13.**

**Staff Report**

**Date:** December 10, 2015

**To:** Mayor Kathleen Hoertkorn and Councilmembers

**From:** Joe Chinn, Town Manager  
Gregory Stepanicich, Town Attorney

**Subject:** An Ordinance of the Town of Ross Amending Ross Municipal Code Chapters 15.50, Time Limits For Completion Of Construction, to Add Certain Time Extensions and to Reduce the Maximum Fine

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**Recommendation**

Council consider introduction and first reading of Ordinance No. 668 to amend Ross Municipal Code Chapter 15.50, Time Limits For Completion Of Construction.

**Background and discussion**

Chapter 15.50 of the Ross Municipal Code establishes strict time limits for the completion of construction based on the estimated value of the construction. There are projects that can have unusual construction constraints that are not based on the value of the project but site conditions or the requirements for construction such as substantial off-site infrastructure requirements that by necessity require more construction time. Currently Chapter 15.50 does not provide any discretion for the Council to extend the applicable construction time limit due to extraordinary circumstances. The only relief available to a property owner is to seek a reduction of penalties after the completion of construction. This creates uncertainty to property owners as to the financial penalty they will incur if completion of construction is delayed due to circumstances beyond their control.

Staff also is encountering situations where compliance with stringent state waste disposal and recycling requirements for construction demolition waste is causing construction completion delays beyond the control of contractors and property owners.

Lastly, the financial penalties imposed by Chapter 15.50 for late construction increase from \$500 per day to \$2,000 per day when the construction delay exceeds 120 days. This significant step up in the penalties for construction delays can cause the total penalties in a particular case to be much higher than the penalties imposed for other code violations. The Town Attorney recommends that the maximum penalty be reduced to \$1,000 per day and staff agrees with that recommendation.

The proposed amendments would implement three changes to Chapter 15.50:

1. Allow the Town Council to add up to 90 days to the construction time limits in special circumstances involved with the construction of the project that require additional time, such as exceptional infrastructure requirements, including off site street improvements, unusual site topography making construction more difficult than normal or other exceptional construction constraints or challenges. The Town Council would have the discretion to add this extension as a design review condition. In granting this type of extension, the Council also would need to find that the extension would not have a substantial adverse impact on the neighborhood in which the project is located.

2. Allow the Building Official to grant up to an additional 60 days to the normal construction time limits for any residential or nonresidential development project (including alterations and additions) as applicable under California Green Building Standards Code ("CalGreen") requiring CalGreen compliance for construction debris removal that exceeds 2,500 square feet or more of demolition. The number of days extended by the Building Official up to 60 days would be based upon the difficulty and amount of demolition involved in a project. This amendment as proposed will apply to any project that was issued a building permit after September 1, 2015.

3. Reduce the maximum daily fine from \$2,000 to \$1,000 for construction delays exceeding 120 days.

**Fiscal, resource and timeline impacts**

Reduced penalty collections.

**Alternative actions**

Do not adopt the proposed amendments or adopt modified revisions to Chapter 15.50.

**Environmental review (if applicable)**

Exempt per 14 Cal. Code Regs. § 15061(b)(3).

**Attachments**

- Ordinance No. 668

## TOWN OF ROSS

### ORDINANCE NO. 668

#### AN ORDINANCE OF THE TOWN OF ROSS AMENDING ROSS MUNICIPAL CODE CHAPTER 15.50, TIME LIMITS FOR COMPLETION OF CONSTRUCTION, TO ADD CERTAIN TIME EXTENSIONS AND TO REDUCE THE MAXIMUM FINE

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

**SECTION 1:** Subdivision (g) shall be added to the end of Section 15.50.050 of the Ross Municipal Code as follows:

“(g) Extensions. The time limits for construction completion set forth above may be extended as follows:

(1) At time of project design review approval or prior to the issuance of a building permit for the project, the town council may extend the established timeline for completion of construction by up to 90 days if the Council finds that there are extraordinary circumstances involved with the construction of the project that require additional time for completion, such as exceptional off-site street or other infrastructure requirements, unusual site topography, or other exceptional construction constraints caused by the construction site or construction requirements. In granting a time extension, the Council also must find that the extension will not have a substantial adverse impact on the neighborhood in which the project is located.

(2) For any development project requiring CalGreen compliance for construction waste disposal and recycling pursuant to California Code of Regulations, Title 24, Part 11, Sections 4.408 or 5.408 that exceeds 2,500 square feet or more of demolition, the town building official may grant up to 60 days additional time to complete construction depending upon the difficulty and amount of demolition. This Subdivision (g)(2) shall apply to any project that was issued a building permit after September 1, 2015.

**SECTION 2:** Subdivision (a)(4) of Section 15.50.070 of the Ross Municipal Code shall be revised as follows:

“(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 (\$1,000) per day.”

**SECTION 3:** This Ordinance shall go into effect on thirty (30) days from its adoption, and shall be posted in three public places in Town.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Ross Town Council on the 10<sup>th</sup> day of December, 2015, and was adopted at a regular meeting of the Ross Town Council on the \_\_\_\_ day of \_\_\_\_\_, 2016 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Kathleen Hoertkorn, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk