



Agenda Item No. 12.

Staff Report

Date: June 13, 2024

To: Mayor Kircher and Council Members

From: Roberta Feliciano, Planning and Building Director

Subject: Introduction of Ordinance No. 726 for consideration of Ross Municipal Code (RMC) amendments to Chapters 18.41 and 18.50 to update the Town’s Demolition and Design Review regulations for exterior wall coverings

Recommendation

It is recommended that the Town Council waive first reading, read by title only, and introduce Ordinance 726 for consideration of amendments to the following Ross Municipal Code (RMC) chapters, and direct staff to return for second reading and adoption on July 11, 2024:

- Chapter 18.41, Design Review. Zoning text amendments to Section 18.41.020(a)(8) pertaining to the removal or alteration of more than twenty-five percent of the exterior walls or wall coverings of a residence.
- Chapter 18.50, Demolition of Structures. Zoning text amendments to 18.50.020(a) pertaining to the alteration of more than twenty-five percent of the exterior walls or exterior wall coverings.

The purpose of these amendments is to update the RMC provisions for exterior wall coverings.

Background and Discussion

During the April 13, 2023, Town Council meeting, Council Members Brekhus and McMillan requested that Town staff review the need for a project to replace exterior siding and bring it before the Town Council for review and approval.

On March 14, 2024, the Ross Town Council discussed existing Ross Municipal Code (RMC) provisions that apply to exterior wall coverings such as siding and stucco. During the discussion the Town Council recommended that planning staff consult with the Advisory Design Review (ADR) Group on the zoning text amendments for removal/alteration of exterior wall siding.

On April 16, 2024, the ADR Group recommended zoning text amendments to allow an exception to design review and demolition provisions for exterior wall covering replacements that are made in-kind (like-for-like), including siding direction, width, spacing, color and texture.

Additionally, the Town Council supported alterations of exterior wall siding for fire preventative measures. Based on the discussions from the Town Council, Attachment 2 contains the proposed amendments to the Ross Municipal Code (RMC) Sections 18.50 and 18.41 involving classes of projects that may be exempt from obtaining a demolition permit and design review relating to exterior wall coverings.

Alternative actions

The Town Council may choose to provide direction to staff or continue the item for further discussion. If the Town Council takes no action, then staff will continue to apply and enforce the existing regulations.

Fiscal, resource and timeline impacts

No fiscal impact anticipated other than staff time.

Environmental review

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378, actions that include general policy making are not considered projects under CEQA.

Attachments

1. Ordinance No. 726 (Zoning Ordinance Amending Exterior Wall Coverings provisions)
2. Proposed Zoning text amendments (redlined)

ATTACHMENT 1

TOWN OF ROSS

ORDINANCE NO. 726

AN ORDINANCE OF THE TOWN OF ROSS AMENDING ROSS MUNICIPAL CODE (RMC) SECTIONS 18.50 AND 18.41 INVOLVING CLASSES OF PROJECTS THAT MAY BE EXEMPT FROM OBTAINING A DEMOLITION PERMIT AND DESIGN REVIEW RELATING TO EXTERIOR WALL COVERINGS.

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

SECTION 1: PURPOSE. The Ross Municipal Code (RMC) requires design review and a demolition permit for the removal or alteration of more than twenty-five percent of exterior wall coverings of a residence. The code does not consider in-kind replacements or alterations due to fire preventative measures. For these reasons, the Town Council seeks to amend RMC Sections 18.50 and 18.41.

SECTION 2: RMC Title 18, Zoning, Sections 18.41 and 18.50 is hereby amended with the following:

18.50.020 Chapter application. (a) Except as otherwise provided in this chapter, no dwelling unit, carriage house, commercial or institutional building on any lot within the town shall be demolished until a demolition permit is approved by the Ross town council. A demolition permit for exterior demolition shall be required for the demolition of more than twenty-five percent of the floor area of a structure or for the demolition of more than one thousand square feet of floor area, whichever is smaller. A demolition permit shall be required for any project resulting in the alteration of more than twenty-five percent of the exterior walls or exterior wall coverings of a residence, ~~as determined by the town planner.~~ However, a demolition permit shall not be required for alterations of exterior wall coverings made in-kind (like-for-like), including siding direction, width, spacing, texture and color. Additionally, a demolition permit shall not be required when replacement of the exterior wall coverings are required for fire preventative measures (as evidenced by a letter from a home insurance company).

18.41.020(a)(8) Any project resulting in the removal or alteration of more than twenty-five percent of the exterior walls or wall coverings of a residence, ~~as determined by the Planner.~~ However, design review shall not be required for alterations of exterior wall coverings made in-kind (like-for-like), including siding direction, width, texture, spacing and color. Additionally, design review shall not be required when replacement of the exterior wall coverings are required for fire preventative measures (as evidenced by a letter from a home insurance company).

18.41.020(b)(7) Design Review is not required for the following:

(7) Alterations of exterior wall coverings made in-kind (like-for-like), including siding direction, width, texture, spacing and color. Additionally, design review shall not be required when

replacement of the exterior wall coverings are required for fire preventative measures (as evidenced by a letter from a home insurance company).

SECTION 3: Inclusion in the Ross Municipal Code. It is the intention of the Ross Town Council that the additions, deletions, and amendments in the sections above be made a part of the Ross Municipal Code (RMC) and that the text may be renumbered or re-lettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.

SECTION 4: CEQA. The Town Council has determined that the ordinance is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) in that the Council finds there is no possibility that the adoption of this ordinance may have significant effects on the environment. The Town Council would require environmental review based on the specific site circumstances for any project subject to discretionary review. The Town Council also considers the project exempt from review under the California Environmental Quality Act under the "common sense" exemption. (*14 Cal. Code Regs. §15061(b)(3)*) since "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."

SECTION 5. SEVERABILITY. If any article, section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Town Council of the Town of Ross hereby declares that it would have adopted each article, section, and sentence thereof, irrespective of the fact that any one or more of said provision be declared unconstitutional or invalid.

SECTION 6. PUBLICATION AND EFFECTIVE DATE. The Town Clerk is directed to certify adoption of this ordinance and cause it to be published and posted in the manner required by law. This ordinance shall go into effect thirty (30) days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Ross Town Council on June 13, 2024, and was adopted at a regular meeting of the Ross Town Council on July 11, 2024, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- ATTEST:**

Cyndie Martel, Town Clerk

C. William Kircher, Mayor

ATTACHMENT 2

Chapter 18.50

DEMOLITION OF STRUCTURES

Sections:

18.50.010	Purpose.
18.50.020	Chapter application.
18.50.030	Submittal requirements.
18.50.040	Hearing.
18.50.045	Administrative review.
18.50.050	Approval--Special conditions.
18.50.060	Findings.
18.50.070	Denial of incomplete or inactive applications.
18.50.080	Noncompliance.
18.50.090	Emergency situations.
18.50.100	Permit for replacement structure required.

18.50.010 Purpose. (a) The "small town" quality and feel of the town are heavily shaped by the attributes, integrity, historical character and design scale of existing residential and commercial neighborhoods. The preservation, enhancement and continued use of structures with historic, architectural, cultural and/or aesthetic importance is essential in retaining this community character.

(b) The town council, after considering citizen and professional input, as necessary, should decide whether a structure may be removed from the neighborhood fabric of Ross. When demolition of a structure is appropriate because of a lack of historic, architectural, cultural and aesthetic value, the replacement structure must be sensitive to existing neighborhood character and qualities. Demolition activity itself should be designed to minimize disturbances and hazard to the neighborhood and community.

(c) This chapter establishes procedures for the review of proposed demolitions and construction of replacement structures necessary to meet this purpose. (Ord. 513 §1(part), 1993).

18.50.020 Chapter application. (a) Except as otherwise provided in this chapter, no dwelling unit, carriage house, commercial or institutional building on any lot within the town shall be demolished until a demolition permit is approved by the Ross town council. A demolition permit for exterior demolition shall be required for the demolition of more than twenty-five percent of the floor area of a structure or for the demolition of more than one thousand square feet of floor area, whichever is smaller. A demolition permit shall be required for any project resulting in the alteration of more than twenty-five percent of the exterior walls or exterior wall coverings of a residence. ~~as determined by the town planner.~~ However, a demolition permit shall not be required for alterations of exterior wall coverings made in-kind (like-for-like), including siding direction, width, spacing, texture and color. Additionally, a demolition permit shall not be required when replacement of the exterior wall coverings are required for fire preventative measures (as evidenced by a letter from a home insurance company). (Ord. 726 (part), 2024)

(b) This requirement for a demolition permit does not apply to accessory structures not used for dwelling purposes, including but not limited to swimming pools, decks, fences, garages

and cabanas. Interior remodels or alterations involving no exterior demolition are not regulated by this chapter. (Ord. 641 (part), 2013; Ord. 544 (part), 1999; Ord. 513 §1(part), 1993).

18.50.030 Submittal requirements. (a) Demolition permit applications to allow demolition activity shall be filed with the planning department on forms prepared by the town planner. A fee as set by the town council shall be provided.

(b) Every demolition permit application shall include standard submittal requirements as prepared by the town planner. Applications must include information necessary to allow the town to review the building replacing the demolished structure, including, but not limited to, building elevations, sections, floor plans and site plans. All drawings and plans shall show both existing and proposed elevations and clearly identify all new construction and label all materials as new or existing. An extensive termite, dry rot damage report shall be prepared, as required by the town planner or town council, which shall not only identify areas of damage but shall explore to determine the full extent of the damage, both exposed and concealed. Complete photos and a videotape of the structure's exterior shall be provided. A project manager, hired by the Town at the applicant's expense, shall monitor demolition/construction activity as deemed necessary by the town building official. Additional information may be required by the planner or town council.

(c) Independent evaluation and report by an architect specializing in historic preservation, historical resources or a similar field may be required by the town planner or council. This consultant will be selected by the town and retained at the applicant's expense. (Ord. 641 (part), 2013; Ord. 534 (part), 1996; Ord. 513 §1(part), 1993).

18.50.040 Hearing. Except as otherwise provided in this chapter, demolition permit applications 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. 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 three hundred feet from the exterior boundaries of the project site. (Ord. 641 (part), 2013; Ord. 513 §1(part), 1993).

18.50.045 Administrative review. The town planner may act, without a public hearing or public notice, on any demolition permit application that involves alteration of more than twenty-five percent of the exterior walls, but less than twenty-five percent of the exterior wall coverings of a residence. The town planner may approve the application upon making the findings in Section 18.50.060 and may impose conditions as permitted under Section 18.50.050. (Ord. 641 (part), 2013).

18.50.050 Approval--Special conditions. The town council may place conditions of approval on the demolition and redevelopment of the site as necessary to meet the purpose of this chapter and to make the findings of Section 18.50.060. (Ord. 513 §1(part), 1993).

18.50.060 Findings. (a) The town council may approve or conditionally approve any application upon making the following findings:

(1) The demolition will not remove from the neighborhood or town, nor adversely affect, a building of historical, architectural, cultural or aesthetic value. The demolition will not adversely affect nor diminish the character or qualities of the site, the neighborhood or the community.

(2) The proposed redevelopment of the site protects the attributes, integrity, historical character and design scale of the neighborhood and preserves the "small town" qualities and feeling of the town.

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

(4) The project will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

(b) The town council shall deny any project for which it cannot make the findings required in this section. (Ord. 513 §1(part), 1993).

18.50.065 Project reducing housing stock. Projects reducing the number of housing units in the town, whether involving the demolition of a single unit with no replacement unit or the demolition of multiple units with fewer replacement units, are discouraged; nonetheless, such projects may be approved if the council makes findings that the project is consistent with the neighborhood and town character and that the project is consistent with the Ross general plan. (Ord. 543-1 (part), 1998).

18.50.070 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. (Ord. 513 §1(part), 1993).

18.50.080 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. (Ord. 513 §1 (part), 1993).

18.50.090 Emergency situations. (a) An emergency demolition permit may be issued by the town building official prior to council approval of a demolition permit when a structure is determined by the building official, after consultation with the town planner, to pose an immediate threat to public health, safety and welfare and no other alternative means exist to permanently or temporarily prevent, restrain, correct or abate the threat. The extent of demolition activity shall be limited to the minimum amount necessary to abate the urgency situation. The building official and town planner may condition such emergency demolition as necessary to provide compliance with this chapter.

(b) Neither the failure to perform normal maintenance and repairs, nor willful or negligent acts by the owner, shall be grounds for issuance of an emergency demolition permit. (Ord. 513 §1(part), 1993).

18.50.100 Permit for replacement structure required. If a replacement structure is required as a condition of approving a demolition permit, the town shall not issue a building permit to allow the approved demolition activity until the applicant secures a building permit for the replacement structure. (Ord. 641 (part), 2013).

Chapter 18.41

DESIGN REVIEW

Sections:

18.41.010	Purpose.
18.41.020	Improvements subject to design review.
18.41.030	Chapter application.
18.41.040	Submittal requirements.
18.41.050	Review authority.
18.41.060	Town Council review.
18.41.070	Approval--Special conditions and findings.
18.41.080	Denial of incomplete or inactive applications.
18.41.090	Administrative review.
18.41.100	Design review criteria and standards.
18.41.110	Noncompliance.
18.41.120	Emergency situations.

18.41.010 Purpose. (a) The “small town” feel and the serene, quiet character of its neighborhoods are special qualities to the town. The existing scale and quality of architecture, the low density of development, the open and tree-covered hills, winding creeks and graciously landscaped streets and yards contribute to this ambience and to the beauty of a community in which the man-made and natural environment co-exist in harmony.

(b) This chapter is intended to guide new development to preserve and enhance these special qualities of Ross and to sustain the beauty of the town’s environment. Other specific purposes include the following:

(1) Provide excellence of design for all new development which harmonizes style, intensity and type of construction with the natural environment and respects the unique needs and features of each site and area. Promote high-quality design that enhances the community, is consistent with the scale and quality of existing development and is harmoniously integrated with the natural environment;

(2) Preserve and enhance the historical “small town,” low-density character and identity that is unique to the Town of Ross, and maintain the serene, quiet character of the town’s neighborhoods through maintaining historic design character and scale, preserving natural features, minimizing overbuilding of existing lots and retaining densities consistent with existing development in Ross and in the surrounding area;

(3) Preserve lands which are unique environmental resources including scenic resources (ridgelines, hillsides and trees), vegetation and wildlife habitat, creeks, threatened and endangered species habitat, open space and areas necessary to protect community health and safety. Ensure that site design and intensity recognize site constraints and resources, preserve natural landforms and existing vegetation, and prevent excessive and unsightly hillside grading;

(4) Enhance important community entryways, local travel corridors and the area

in which the project is located;

(5) Promote and implement the design goals, policies and criteria of the Ross general plan;

(6) Discourage the development of individual buildings which dominate the townscape or attract attention through color, mass or inappropriate architectural expression;

(7) Preserve buildings and areas with historic or aesthetic value and maintain the historic character and scale. Ensure that new construction respects and is compatible with historic character and architecture both within the site and neighborhood;

(8) Upgrade the appearance, quality and condition of existing improvements in conjunction with new development or remodeling of a site.

(9) Preserve natural hydrology and drainage patterns and reduce stormwater runoff associated with development to reduce flooding, streambank erosion, sediment in stormwater drainage systems and creeks, and minimize damage to public and private facilities. Ensure that existing site features that naturally aid in stormwater management are protected and enhanced. Recognize that every site is in a watershed and stormwater management is important on both small and large sites to improve stormwater quality and reduce overall runoff.

(c) This chapter establishes procedures and criteria for the review of buildings, structures and improvements necessary to meet this purpose. (Ord. 619 (part), 2010; Ord. 514 §1(part), 1993).

18.41.020 Improvements subject to design review.

(a) Design review is required for the following projects:

(1) All new buildings 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) All building relocations.

(3) Any increase to the existing roof height.

(4) All fences, gates or walls, or a combination of these, greater than forty-eight inches in height in any yard adjacent to the street or right-of-way.

(5) 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.

(6) New retaining walls with a cumulative total of more than one hundred linear feet.

(7) Any sports court fences over 6 feet in height and for gate columns and other decorative fence elements that exceed the permitted fence height limits.

(8) Any project resulting in the removal or alteration of more than twenty-five percent of the exterior walls or wall coverings of a residence., ~~as determined by the Planner~~ However, design review shall not be required for alterations of exterior wall coverings made in-kind (like-for-like), including siding direction, width, spacing, texture and color. Additionally, a demolition permit shall not be required when replacement of the exterior wall coverings are required for fire preventative measures (as evidenced by a letter from a home insurance company).

(9) Any activity or project resulting in more than fifty cubic yards of grading or filling, whether or not a building permit is required.

(10) Any construction, improvements, grading/filling or other site work within twenty-five feet of a creek, waterway or drainage way, whether or not a building permit is required with the exception of creek projects in accordance with Section 18.41.020(b)(4) of this Code.

(11) Any project resulting in over 1,000 square feet of new impervious landscape surface, whether or not a building permit is required.

(12) Redevelopment, Rehabilitation, and/or renovation of existing landscaping over 2,500 square feet, including new hardscape, retaining walls, vegetation modifications, modification to topography, additional impervious surfaces, alterations of drainage patterns, and other site modifications that could affect the visual and/or physical character of the site and neighborhood, whether or not a building permit is required.

(b) Design Review is not required for the following:

(1) Repainting existing structures involving no exterior remodeling resulting in additions, extensions or alterations.

(2) Accessory Dwelling Units in Accordance with Chapter 18.42 of this Code.

(3) Attic improvement permitted under Chapter 18.46 unless the project involves exterior work within twenty-five feet of a creek, waterway or drainageway, or if the attic project is associated with a larger project that requires design review.

(4) Creek stabilization and/or stream bank repair and alteration permits subject to issuance of a building permit and local, state, and federal permitting approval.

(5) Improvement of an existing basement in accordance with Chapter 18.45 of this Code.

(6) Outdoor advertising for the Local Service Commercial (C-L) Zoning District in accordance with Section 18.41.090(d) of this Chapter.

(7) Alterations of exterior wall coverings made in-kind (like-for-like), including siding direction, width, texture, spacing and color. Additionally, design review shall not be required when replacement of the exterior wall coverings are required for fire preventative measures (as evidenced by a letter from a home insurance company).

(Ord. 726 (part), 2024; Ord. 704 (part), 2020; Ord. 696 (part), 2019; Ord. 624 (part), 2011; Ord. 619 (part), 2010; Ord. 604 (part), 2008; Ord. 578 §7, 2003; Ord. 575 (part), 2003; Ord. 558 (part), 2001; Ord. 557 (part), 2001; Ord. 544 (part), 1999; Ord. 534 (part), 1996; Ord. 514 §1(part), 1993).