

Chapter 18.40

GENERAL REGULATIONS

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18.40.020 Chapter applicability. The regulations specified in this chapter shall be subject to the general rules and provisions in Sections 18.40.020--18.40.110. (Prior code §10 110 (part)).

18.40.030 District boundaries and zoning maps and symbols. Where uncertainty exists as to the boundaries of any district shown on the zoning map, the following rules shall apply:

- (1) Where the boundaries are indicated as approximately following property, street or alley lines, the lines shall be construed to be the boundaries;
- (2) Where a district boundary divides a lot, the location of the boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the zoning map;
- (3) A symbol indicating the classification of property on the zoning map shall in each instance apply to the whole of the area within the district boundaries;
- (4) Where one land ownership is divided by a district boundary the total ownership shall be placed in the more restrictive classification. (Prior code §10 110 (part)).

18.40.040 Regulations are minimum. (a) In interpreting and applying the provisions of this title, unless otherwise stated, they shall be held to be the minimum requirements for the promotion and protection of the public safety, health, and general welfare.

(b) The regulations set forth herein shall apply to all land, buildings and structures, either existing or to be constructed. (Prior code §10 110 (part)).

18.40.050 Relationship to other regulations and to private restrictions. (a) Where conflict occurs between the regulations of this title and any uniform building code or other regulations effective within the town, the more restrictive of any such regulations shall apply.

(b) It is not intended that this chapter shall interfere with or abrogate or annul any easement, covenants or other such agreements, provided, however, that where this title imposes greater restrictions than are imposed or required by other titles, rules or regulations, or by easements, covenants, or agreements, the provisions of this chapter shall apply. (Prior code §10 110 (part)).

18.40.060 Additional uses permitted. The following accessory uses, in addition to those hereinbefore mentioned shall be permitted:

(1) The operation of necessary service facilities and equipment in connection with schools, colleges and other institutions when located on the site of the principal use;

(2) Recreation, refreshment and service buildings on park, playground and other recreational properties;

(3) Off-street parking areas in conjunction with commercial uses may be permitted in "R" districts on properties adjoining C-L districts upon the securing of a use permit in each case.

(4) Surface mining, as defined in the Surface Mining and Reclamation Act of 1975, may be permitted only on town council findings of acceptable environmental impact, and the procedures for review and approval of reclamation plans and issuance of use permits to conduct surface mining operations shall be in conformity with the provisions of said act. (Ord. 375 §5, 1977; prior code §10 110 (part)).

18.40.080 Fences and walls. (a) Maximum Fence Heights.

(1) The maximum height for a side or rear yard fence is six feet. A fence up to 7 feet tall may be permitted with a minor exception pursuant to Chapter 18.45.

(2) The maximum height for a front yard fence is four feet. For this section, a front yard fence is one that runs roughly parallel to a road or right-of-way and is within any yard area adjacent to a street. A front yard fence up to 6 feet in height may be permitted with design review approval.

(3) A single arbor-style entry element in the front yard of a residential property is permitted if it is located over a walkway or pathway and does not exceed nine feet in height, five feet in width, and three feet in depth.

(4) Fences and backstops for sports courts, or similar facilities, may be up to ten feet in height with design review.

(5) Fence posts, gate columns and other similar decorative elements are permitted up to a height of six feet six inches with design review.

(b) Driveway entry gates shall be setback at least 18 feet from the edge of the roadway unless a reduced distance is approved by the director of public works.

(c) Measurement of fence and wall height. The height of fences and walls shall be the vertical distance between existing grade at the base of the fence and the top edge of fence material. The existing grade shall not be artificially raised to construct a fence or wall that exceeds the height limits, unless approved by the town. The height of any wall, fence or abutment that is within thirty-six inches of any other such structure shall be deemed to be in "combination" with said other structure.

(6) A two-inch gap at the bottom of the fencing is allowed in excess of the required height limitations. (Ord. 641 (part), 2013; Ord. 604 (part), 2008).

18.40.090 Yards. (a) No yard or other open space provided about any building for the purpose of complying with the regulations of this title shall be considered as providing a yard or open space for any other building or structure, and no portion thereof shall be considered as yard space when it is subject to a vehicular easement that may serve other property.

(b) Front yard depths shall be measured at right angles from the front property line, provided, however, that in all cases where the front property line extends into the street, or beyond the street line, or where the legal title to the property in question includes any portion of the street in front thereof, or abutting thereon, then in all such cases the front yard depth shall be measured from the street line as the line is dedicated, defined, or as the same appears on any official map or recorded map.

It is the intention of this title that no dwelling house shall be set back less than twenty-five feet from the actual street line (inclusive of the sidewalk area).

(c) Except as otherwise provided in this title, all yard areas and the area between the setback line and the street line shall be free of out buildings or other structures. All setback lines and yard areas shall be measured from the closest portion of the dwelling.

(d) Roof mounted solar collectors installed substantially at the same angle as the roof pitch and within a foot of the surface of the roof may be located on primary structures within required side and rear yards. (Ord. 641 (part), 2013; Ord. 604 (part), 2008; Ord. 578 §5, 2003; Ord. 447 §3, 1984; Ord. 404 §1, 1979; Ord. 263 §1, 1967; prior code §10 110 (part)).

18.40.095 Driveways – New construction. (a) Driveways shall be provided when any portion of an exterior wall of the first story of a building is located more than 150 feet from a fire apparatus access road. Driveways shall provide a minimum unobstructed width of 12 feet with 1 foot shoulders and a minimum unobstructed height of 13 feet 6 inches. Driveways in excess of 150 feet in length shall be provided with turnarounds, unless waived by the fire official. Driveways in excess of 300 feet in length and less than 20 feet in width shall be provided with turnouts in addition to turnarounds. Exception: When such driveways meet the requirements for an access road in accordance with the California Fire Code.

(b) Driveway turnarounds shall have inside turning radii of not less than 27 feet and outside turning radii of not less than 45 feet. Driveways that connect with a road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radii requirements for driveway turnarounds. Driveway turnouts shall be an all-weather road surface at least 10 feet wide and 30 feet long, not including the approach or departure ramps. Driveway turnouts shall be located as required by the director of public works. Vehicle load limits shall be posted at both entrances to bridges on driveways and private roads. Design loads for bridges shall be established by the director of public works and the town engineer.

(c) The gradient for fire apparatus access roads and driveways shall not exceed 18%. (Ord. 611 (part), 2008).

18.40.096 Restricted emergency access. Where emergency vehicle access is restricted because of secured access roads or driveways or where immediate access is necessary for life-saving or firefighting purposes, the fire official is authorized to require a key access to be installed in an accessible location. The key access shall be of a type approved by the fire official and shall contain keys or an approved key switch to gain necessary access as required by the fire official. (Ord. 611 (part), 2008).

18.40.100 Height exceptions. Radio aerials, television antennae and chimneys may exceed the specified height in any district, by not more than thirty feet. (Prior code §10 110 (part)).

18.40.110 Public utility buildings and structures. Public utility facilities and structures for local distribution and service shall be permitted in all districts, subject to the approval of the town public works director. A use permit must be secured prior to construction of any facilities or structures for other than local distribution or local service. Notwithstanding anything in this section to the contrary, wireless telecommunications facilities shall comply with chapter 18.55 of the Ross Municipal Code. (Ord. 692 (part), 2018); Ord. 534 (part), 1996: prior code §10 110 (part)).

18.40.115 Signs. (a) Posting of signs. It is unlawful to post, stick, stamp, paint, or otherwise affix, or cause to be done by another, any notice, placard, bill, poster or advertisement, to or upon any sidewalk, crosswalk, curbing, hydrant, shade tree or tree box, fence, enclosure, or building, or upon any telegraph, telephone or electric lighting pole, except as otherwise permitted in this section.

(b) A-frame signs. A-frame signs, not to exceed 6 square feet in size (per side), are permitted in every zoning district. An encroachment permit approved under Chapter 12.08 is required for any A-frame signs in the right-of-way. No balloons shall be tethered to any sign in the right-of-way. In no case shall A-frame signs be in place for more than 12 hours. Signs shall not be placed in such a manner as to obstruct or interfere with traffic or endanger the health or safety of people. Signs are not permitted on a sidewalk or walkway unless a 4-foot path of travel is maintained. Any person erecting an A-frame sign shall indemnify and hold harmless the Town along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim arising out of the presence of the sign on Town property or a public right-of-way.

(c) Temporary signs. For a total period of sixty days, twice per calendar year, and in no event more than 10 days after a local, state, or federal election, individual signs up to three square feet, with a per parcel aggregate area maximum of fifteen square feet are permitted on private property, with owner consent. The signs shall be constantly maintained in a state of security, safety and good repair. Any such sign that is not so maintained or is unsafe or insecure so as to be a menace to public safety or unsightly shall be deemed to be a public nuisance and subject to removal. No sign shall be erected on, under, above, or across any public property or any public right-of-way. Any sign not posted in accordance with, or existing in violation of, the provisions of this section shall be deemed to be a public nuisance and shall be subject to removal by the property owner, after notice to such person and their failure to do so, by the town building official. Any such sign remaining posted after the ten-day post-election period set forth in this section, shall be subject to summary removal by the building official, without notice.

(d) Severability. If any 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 section or any part thereof. (Ord. 710 (part), 2021; Ord. 652 (part), 2014; Ord. 565, 2002; Ord. 395 §1, 1978).

18.40.120 Trailers and vehicles used for habitation or parked in private driveways.

(a) Recreational Vehicles, as defined in Section 10.28.080 must neither be used as living quarters nor used for conducting business while parked or stored except as permitted in Section 18.40.120(c).

(b) Recreational Vehicles, as defined in Section 10.28.080, are permitted to park or be stored on private property if the following conditions have been met:

- a. The RV must be parked on the driveway.
- b. The RV must be setback a minimum of 15 feet from the roadway's edge.
- c. The RV may not be parked for more than 3 days, unless the property owner has erected a fence or similar screening that substantially blocks the view of the vehicle from the public. Said fence or screening will be subject to the design review process in Section 18.41 and all other relevant zoning requirements of this code.
- d. The RV does not reduce the number of off street parking spaces to less than two (2) parking spaces.

(c) Recreational Vehicles, as defined in Section 10.28.080 may be used as living quarters or job site construction offices, with approval of a use permit pursuant to Chapter 18.44, for construction projects that involve new construction of a primary residence or substantial remodel of the existing residence as determined by the Planning and Building Director. The use permit shall automatically expire within two (2) years of issuance or 30 days after the building permit for the primary residence is closed, whichever comes first. The use permit shall confer no vested or perpetual rights in the underlying property or with the permittee. (Ord. 708 (part), 2020; Ord. 687 (part), 2018; Ord. 578 §6, 2003; Ord. 305 §1, 1970).

18.40.150 Business license requirements. Any person engaging in business within the town of Ross must first obtain a business license from the town and pay the business license fee. Prior to the issuance of a building permit, or at a time as determined by the planning director, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the town prior to project final. (Ord. 576 (part), 2003).

18.40.160 Road maintenance. All project owners and contractors working in the town of Ross shall be responsible for maintaining town roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately. (Ord. 576 (part), 2003).

18.40.170 Portable toilets. Any portable toilets shall be placed off the street and out of public view. (Ord. 576 (part), 2003).

18.40.180 Indemnification. All applicants and/or owners shall defend, indemnify, and hold the town harmless along with the Town Council and town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding (“action”) against the town, the Town Council, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The town shall promptly notify the applicants and/or owners of any action. The town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the town may defend the action with its attorneys with all attorney fees and litigation costs incurred by the town in either case paid for by the applicant and/or owners. (Ord. 653 (part), 2014; Ord. 576 (part), 2003).

18.40.190 Lighting. All exterior lighting shall be directed downward and shielded (no bare bulb light fixtures or down lights that may be visible from down-slope sites). Exterior lighting of landscaping by any means shall not be permitted if it creates glare or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public rights-of-way is prohibited. Lighting generated by outdoor use of television, video or other electronic devices shall not be permitted if it creates glare or annoyance for adjacent property owners. (Ord. 708 (part), 2020; Ord. 576-1, 2003).

18.40.200 Implementation of State density bonus law. When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the town pursuant to California Government Code Section 65915 et seq., the town shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in Government Code Section 65915 et seq.

(a) Requests for specific incentives or concessions under Government Code Section 65915 et seq. shall be filed with the planning department on forms prepared by the town planner. The town council shall consider the request concurrently with the underlying development application.

(b) The town council shall grant the concession or incentive requested by the applicant unless the town makes written findings, based upon substantial evidence, as required by 65915(d)(1). The town council shall include conditions necessary to meet the purpose and intent of the density bonus law. (Ord. 631 (part), 2012).

18.40.210 Commercial cannabis uses and cultivation.

(a) Definitions. For purposes of this section, the following definitions shall apply, unless context clearly indicates otherwise. If a word is not defined in this section, the common and ordinary meaning of the word shall apply. All citations to state law shall refer to the act, statute, or regulation as may be amended from time to time.

“Cannabis” means all parts of the plant *cannabis sativa linnaeus*, *cannabis indica*, or *cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana, and any product containing marijuana. “Cannabis” includes cannabis that is used for medical, non-medical, or other purposes. For the purpose of this Section, “cannabis” does not mean (1) “industrial hemp” as defined by California Food and Agricultural Code Section 81000 or California Health and Safety Code Section 11018.5; or (2) the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

“Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate.

“Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to cannabis concentrate, or an edible or topical product containing cannabis or cannabis concentrate and other ingredients.

“Commercial cannabis activity” means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of cannabis or cannabis products for medical, non-medical, or any other purpose and includes the activities of any business licensed by the State or other government entity under Division 10 of the Business and Professions Code, or any provision of State law that regulates the licensing of cannabis businesses. “Commercial cannabis activity” does not include the cultivation, possession, storage, manufacturing, or transportation of cannabis by (1) a qualified patient for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person; or by (2) a primary caregiver, exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code section 11362.765.

“Commercial cannabis use” means the use of any property for commercial cannabis activity.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer, and shall include the use by a retailer of any technology platform owned and controlled by the retailer.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed under Division 10 of the California Business and Professions Code.

“Fully enclosed and secure structure” means a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, is secure against unauthorized entry, provides complete visual screening, is accessible only through one or more lockable doors, and is inaccessible to minors.

“Indoors” means within a fully enclosed and secure structure.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“MAUCRSA” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

“Outdoors” means any location that is not within a fully enclosed and secure structure.

“Person” includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Primary caregiver” shall have the same meaning as is defined in California Health and Safety Code section 11362.7(d), as the same may be amended from time to time.

“Private residence” means a house, an apartment unit, a mobile home, or other similar dwelling that is lawfully used as a residence.

“Qualified patient” means a person who is entitled to the protections of California Health and Safety Code Section 11362.5

(b) Prohibitions.

(1) Commercial cannabis uses are expressly prohibited in all zones in the Town. No person shall establish, operate, maintain, conduct or allow commercial cannabis uses anywhere within the Town. The Town shall not approve any application for a building permit, conditional use permit, variance, or any other entitlement authorizing the establishment, operation, development, or construction of any commercial cannabis use.

(2) Outdoor cannabis cultivation is expressly prohibited in all zones in the Town. No person owning, renting, leasing, occupying, or having charge or possession of any parcel shall cause or allow such parcel to be used for cultivating cannabis outdoors.

(3) Indoor cannabis cultivation, including cultivation by a qualified patient and primary caregiver, is prohibited except in strict compliance with Section 18.40.210(c) below.

(c) Indoor cannabis cultivation. It is hereby declared to be a public nuisance for any person owning, leasing, occupying, or having charge or possession of any real property in the city to cause or allow such real property to be used for the cultivation of cannabis except in strict compliance with the requirements set forth below:

(1) Cannabis cultivation shall only occur indoors at a private residence, or inside an accessory structure located upon the grounds of a private residence.

(2) Only persons (21) years of age or older may cultivate cannabis. Any cannabis cultivation must comply with the requirements set forth in California Health and Safety Code sections 11362.1 and 11362.2.

(3) Cannabis cultivation is permitted only within fully enclosed and secure structures. Cultivation areas shall be secured by lock and key or other security device which prevents unauthorized entry and shall not be visible from a public right of way.

(4) Cannabis cultivation shall be limited to six (6) plants total, whether immature or mature, regardless of how many residents reside at the private residence.

(5) Cannabis cultivation, including any lighting, plumbing, or electrical components used for cultivation, shall comply with Title 15 (Buildings and Construction) of the Ross Municipal Code. Lighting shall not exceed 1,000 watts per light. The use of gas products (CO₂, butane, etc.) or CO₂ and Ozone generators for cannabis cultivation is prohibited. Any fully enclosed and secure structure or residence used for the cultivation of cannabis must have proper ventilation and shall not create a humidity or mold problem in violation of Title 15 or applicable state health and safety codes.

(6) Cultivation shall not be conducted in a manner that produces light, glare, heat, noise, odor, or vibration that is or whose effect is either detrimental to public health, safety, or welfare or interferes with the reasonable enjoyment of life or property.

(7) The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms shall not be used for cannabis cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping, and bathing.

(8) Cultivation of cannabis shall not displace required off street parking, or violate any other provisions of the Ross Municipal Code.

(9) Written consent of the property owner must be obtained prior to the commencement of cultivation.

(d) Exceptions.

(1) The delivery of cannabis to a qualified patient or a primary caregiver from a business located outside the city and licensed under the MAUCRSA, or any other provision of law that permits State licenses for medical cannabis businesses, shall be permitted into the city.

(2) Nothing in this Section shall prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

(3) Nothing in this Section shall prohibit any commercial marijuana activity that the Town is required by state law to permit within its jurisdiction pursuant to the MAUCRSA.

(4) Nothing in this Section shall prohibit a person 21 years of age or older from engaging in activities authorized by California Health and Safety Code Section 11362.1.

(e) Violation; penalty. In addition to any other enforcement permitted by this Chapter 18.64, the Town Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this section, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party. Notwithstanding the penalties set forth in Chapter 1.04 of the Town Code, no provision of this Section authorizes a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71, *et seq.* or Section 11362.1, *et seq.*, as the same may be amended from time to time.

(f) Construction with state law. Nothing in this chapter is intended to conflict with the provisions of state law concerning the regulation of cannabis. In the event of a direct and express conflict between state law and any provision of this chapter, state law, as applicable, shall control. (Ord. 684 (part), 2017; Ord. 681 (part), 2017; Ord. 680 (part), 2016; Ord. 670 (part), 2016; Ord. 664 (part), 2015).