



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
February 24, 2016
Agenda Item:

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Consider Recommendation to the Town Council Regarding Various Amendments to Chapter 16 (Zoning) of the Tiburon Municipal Code, Including but not Limited to Regulations Regarding Firearms, Marijuana Sales and Cultivation, Yards and Setbacks, and Use-for Use Changes; File MCA 2016-01; Town-initiated Amendments

BACKGROUND

This item is for consideration of various zoning ordinance text amendments, all of which are Town-initiated. The role of the Planning Commission is to hold a public hearing on the proposed amendments and make a recommendation to the Town Council regarding adoption.

ANALYSIS

There are two separate sets of proposed text amendments. The first set deals with firearms regulations and are tied to amendments proposed by the Town Council to Municipal Code Chapter 32 (Regulation of Firearms), wherein the zoning text changes complement and implement those more extensive amendments where they would interface with the zoning ordinance. The second set deals with a variety of amendments relating to topics such as yards and setbacks, marijuana sale and cultivation, and use-for-use changes in commercial zones.

Firearms-related Amendments

In January 2016, the Town Council discussed amendments to the Town's existing provisions regarding firearms and ammunition (Municipal Code Chapter 32) in an effort to strengthen local control over certain aspects of firearms regulation that are not preempted by state or federal law. Implementation of certain firearms provisions proposed for inclusion in a revised Chapter 32 would require coordination with zoning regulations, necessitating amendments to the latter. Specific zoning text amendments proposed would add a definition for "firearms sales", add "firearms sales" to the list of conditionally permitted uses in the commercial zones, and prohibit "firearms sales" as an allowable type of home occupation. The latter would effectively prevent the sale of firearms and ammunition in residential zones. The proposed amendments to Chapter 32 do not require review or recommendation by the Planning Commission, but will be considered by the Town Council at the same public hearing as the proposed zoning text amendments being reviewed by the Commission as part of this item. Draft minutes of the Town's Council's discussion on the item are attached as **Exhibit 4**.

Miscellaneous Amendments

A majority of these amendments clarify the relationship between “setbacks” and “yards”, which was an area of debate at a recent Town Council appeal hearing on a design review approval. The amendments replace the generic term “yard” with the more specific term “setback” in all relevant instances, including in graphic representations, and modify the definitions accordingly. The proposed amendments reflect actual practice and interpretation over the past several decades and do not constitute a change in that regard.

Other amendments prohibit the sale and cultivation of marijuana in all zones by adding these to the list of uses prohibited in all zones. The Town Council recently adopted a resolution banning such uses (in response to a deadline created by State legislation) based on the principle of “permissive zoning”, but the superior practice is to specifically prohibit the uses outright in the text of the ordinance. The proposed amendments would do so.

A final proposed amendment would modify the existing provision regarding “use-for-use” changes in the Neighborhood Commercial and Village Commercial zones by clarifying the circumstances under which a conditional use permit would not be required. Additional text is proposed to be added to make this clarification.

Attached **Exhibit 1** sets for the text amendments in redline format in their actual context. Draft resolutions recommending approval of the amendments are attached as **Exhibits 2 and 3**.

ENVIRONMENTAL REVIEW

Staff has preliminarily determined that the proposed amendments are exempt from further review under the California Environmental Quality Act (CEQA) on the basis that they constitute Minor Alterations in Land Use Limitations pursuant to CEQA Guidelines Section 15305, and that it can be seen with certainty that the amendments have no potential to result in an adverse affect on the environment pursuant to Section 15061(b)(3) of the CEQA Guidelines. The Town Council would finalize this determination if it approves the amendments. The Commission’s role is to “consider” the preliminary CEQA determination in making its recommendation to the Town Council.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing and take any testimony from interested persons.
2. Deliberate upon the proposed text amendments, considering all evidence and testimony in the record.
3. Move to adopt the attached resolutions recommending approval of the text amendments to the Town Council.

EXHIBITS

1. Redline sheets showing proposed amendments in actual context.
2. Draft resolution recommending approval of the firearms-related zoning text amendments.
3. Draft resolution recommending approval of the remaining proposed zoning text amendments.
4. Town Council minutes (excerpt) of January 20, 2016, regarding firearms regulations.

Prepared By: Scott Anderson, Director of Community Development

Redline Showing Amendments in Context

16-10.050 - Applicability of zoning ordinance.

- A. **Applicability.** This zoning ordinance shall apply, insofar as legally permissible, to all property within the incorporated limits of the town, including the public streets and waterways, public utility poles, lines, and underground facilities for primary distribution systems, whether such property is owned by the United States of America or any of its agencies, the State of California or any of its agencies or political subdivisions, any county or city including the town or any of its agencies, any authority or district organized in compliance with the laws of the State of California, or private persons, firms, corporations, utilities, or organizations. The scope of this zoning ordinance is limited by certain preemptions set forth in state and/or federal law.
- B. **Vested right exception.** Except in cases where a property owner can establish a vested right to be regulated by any prior ordinance or town-recognized document, the provisions of this zoning ordinance shall apply to all property development in the town.
- C. **Master and precise plan exception.** Nonvested properties for which master and/or precise plans or their functional zoning permit equivalent have been adopted prior to December 26, 1990, shall continue to be governed by the provisions of those approvals, except that all such properties shall be subject to the floor area limit provisions of this zoning ordinance, where such provisions are more restrictive than the floor area limit provisions, if any, contained in the master and/or precise plans or their equivalent.
- D. **New land uses, structures, and changes to them.** Compliance with the following requirements is necessary for any person or public agency to lawfully establish a new land use or structure, or to alter or replace any land use or structure:
1. **Allowable use.** The proposed use of land shall be listed as an allowable land use in article II of this zoning ordinance (zones and allowable land uses) within the zone that applies to the site;
 2. **Development standards.** The proposed use of land or structure shall satisfy all applicable requirements of this zoning ordinance, including, but not limited to, minimum lot area, height limits, required ~~yard and street~~ setbacks, residential density, lot coverage, floor area limits, etc.; and
 3. **Permit/approval requirements.** Any land use permit or other approval required by article II (zones and allowable land uses) shall be obtained. The preparation, filing, and processing of land use permit applications shall comply with article V (zoning permit procedures).
- E. **Issuance of building permits.** The building division may issue building permits only when:
1. The proposed land use and/or structure satisfy the requirements of subsection D above; and
 2. The director determines that the permit application contains all materials necessary to determine compliance with this section.
- F. **Continuation of an existing structure or land use.** An existing land use is lawful and not in violation of the Tiburon Municipal Code when operated and maintained in compliance with all applicable provisions of this zoning ordinance. However, the requirements of this zoning ordinance are not retroactive in their effect on a land use that was lawfully established before this zoning ordinance or any applicable amendment became effective. See division 16-62 (nonconforming uses, structures and lots).
- G. **Alteration or expansion of an existing structure or land use.** Any alteration, expansion or modification of an existing land use shall comply with all provisions of this zoning ordinance, specifically including division 16-62 (nonconforming uses, structures and lots).
- H. **Effect of zoning ordinance changes on projects in progress.** The enactment of this zoning ordinance or amendments to its requirements may impose different standards on new land uses than those that applied to existing development. For example, this zoning ordinance, or a future amendment, could require larger building setbacks for a particular land use than former zoning ordinance provisions.

- c. Referral for determination. The director may refer the question of whether a proposed use qualifies as a similar and compatible use directly to the commission for a determination at a public meeting.
- d. Appeal. A determination of additional uses, similar or accessory to those allowed, may be appealed in compliance with division 16.66 (appeals).

4. Prohibited uses.

- a. Marijuana Dispensaries are prohibited in all zones.
- b. The sale of marijuana is prohibited in all zones.
- c. The cultivation of marijuana is prohibited in all zones. For purposes of this section, "cultivation of marijuana" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

B. Permit requirements. Division 16-21, table 2-1; section 16-21.030; section 16-22.030; section 16-23.030; section 16-24.030; section 16-25.030; section 16-26.030; section 16-27.030; and section 16-28.030 provide for land uses that are:

- 1. Allowed subject to compliance with all applicable provisions of this zoning ordinance, including site plan and architectural review, where required, and subject to first obtaining any building permit or other permit required by the Municipal Code;
- 2. Allowed subject to the approval of a conditional use permit (section 16-52.040); and
- 3. Not allowed in particular zones.

A land use authorized through the approval of a conditional use permit may also require site plan and architectural review approval (16-52.020), a building permit, or other permit required by the Municipal Code. Uses listed as allowed by a conditional use permit, as determined by the director or commission as conforming to the purposes of such zone, are not permitted in such zone unless a conditional use permit has been granted.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010; Ord. No. 552 N.S., § 2(A), 9-3-2014)

16-20.040 - Exemptions from zoning permit requirements.

The zoning permit requirements of this zoning ordinance do not apply to the land uses, structures, and activities identified by this division. These are allowed in all zones subject to compliance with this division.

Exempt activities and land uses. The following are exempt from the zoning permit requirements of division 16-21, table 2-1; section 16-21.030; section 16-22.030; section 16-23.030; section 16-24.030; section 16-25.030; section 16-26.030; section 16-27.030; and section 16-28.030. The following are also exempt from site plan and architectural review in compliance with section 16-52.020 (site plan and architectural review), unless otherwise noted.

- 1. Decks and platforms less than three feet above grade; paths. Decks and platforms and their associated components that do not constitute a "structure" as defined herein; paths that do not require a building or grading permit.
- 2. Fences and walls three and one-half feet (forty-two inches) or less in height. See section 16-30.040 (fences and walls).
- 3. Interior remodeling. Interior alterations that do not increase the gross floor area of the structure, change the permitted use of the structure, or result in any physical exterior alterations to the structure.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-21.020 - Purposes of the residential zones.

The purpose of each residential zone is as follows.

- A. R-1 (single-family residential) zone. The R-1 zone is intended to promote and encourage the maintenance of a suitable environment for suburban family living on smaller single-family residential lots in older developed areas of the town. The R-1 zone conforms with general plan land use designation medium high density (MH).
- B. R-1-B zones. The R-1-B zones are comprised of properties formerly located in unincorporated Marin County that were annexed to the town after incorporation in 1964. These properties were generally developed under County of Marin zoning districts with setbacks that do not correspond to other single-family residential zones in the town. The R-1-B zones conform with general plan land use designation medium high density (MH). R-1-B zones have modified setbacks in order to reduce the creation of nonconforming structures that would otherwise result from annexation of properties that were generally developed with different setback requirements.
 1. R-1-B-A (Bel Aire single-family residential) zone. The R-1-B-A zone serves the same purpose as the R-1 zone but is intended to reflect the different front and side yard setbacks historically found in the Bel Aire Estates neighborhood. The principal uses, conditional uses, and development standards for the R-1-B-A zone shall be the same as the R-1 zone with the exception of the front and side yard setbacks established in section 16-21.040 (residential zones development standards).
 2. R-1-B-2 (modified single-family residential) zone. The R-1-B-2 zone serves the same purpose as the R-1 zone but is intended to reflect the different front and side yard setbacks with which the properties were developed. The principal uses, conditional uses, and the development standards for the R-1-B-2 zone shall be the same as the R-1 zone with the exception of the front and side yard setbacks established in section 16-21.040 (residential zones development standards).
- C. RO (residential open) zone. The RO zone is intended to promote and encourage the maintenance of a suitable environment for low-density, single-family development on lots larger than those typically found in the R-1 zone. There are two RO zones, RO-1 and RO-2, each having its own development standards. The permitted and conditional uses are the same for both zones. The RO-1 zone conforms with general plan land use designation medium low density (ML). The RO-2 zone conforms with general plan land use designation medium density (M).
- D. R-2 (two-family residential) zone. The R-2 zone is intended to promote and encourage the establishment and maintenance of a suitable environment for suburban family living in areas appropriate by location and character for single-family and two-family dwellings. The R-2 zone conforms with general plan land use designation high density (H).
- E. R-3 (multifamily residential) zone. The R-3 zone is intended to promote and encourage the establishment and maintenance of a suitable environment for residence in areas appropriate by location and character for multifamily dwellings. The R-3 zone conforms with general plan land use designation very high density (VH).
- F. Planned residential development zones. There are numerous planned developments where applicable zoning regulations have been previously established by adoption of master plans, precise plans, precise development plans, conditional use permits, or similar zoning permits. These planned developments are depicted on the map entitled "Planned Development Map," incorporated as section 16-14.020 (zoning map and zones). A current list of the applicable ordinances and/or resolutions governing the planned developments is on file at the community development department.

16-22.030 - Commercial zones allowable land uses and permit requirements.

A. NC Zone.

1. Permitted uses in the NC zone.

- a. Use-for-use changes (e.g., restaurant to restaurant) or minor structural alterations when no substantive intensification of use, as determined by the Director, is proposed; except as set forth in Subsection A.1.e below. Substantive intensification of use shall be measured in terms of parking requirements, number of employees at maximum shift, total floor area occupied, vehicular trip generation, or other factors within the reasonable discretion of the Director. The term "use for use changes" is qualified to limit its applicability to situations where the replacement use is substantially similar to the prior use in the reasonable discretion of the Director.
- b. Lawfully existing uses established prior to December 26, 1990, shall be permitted to operate under the authority and limitations of applicable zoning permits.
- c. The Point Tiburon Plaza commercial area shall continue to be regulated by provisions of the Point Tiburon precise plan and master conditional use permit. Conditional use permits for new uses in the Point Tiburon commercial area may be issued in accordance with provisions herein provided that such approvals are consistent with the Point Tiburon precise plan and master use permit.
- d. Drive-through restaurants, and restaurants that primarily offer fast-food and/or take-out service, are discouraged.
- e. Tiburon Boulevard-fronting ground floor office uses shall not be permitted in newly-constructed or redeveloped buildings located along "Upper Tiburon Boulevard", as that area is defined in the Tiburon General Plan Downtown Element on Diagram 4.4-1, without the granting of a conditional use permit in compliance with section 16-52.040 (conditional use permits) and an exception in compliance with subsection 16-22.040.B.1 (exception for street-fronting ground floor office use in the NC zone). Street-fronting ground floor office uses shall not be permitted on street addresses 1690 through 1698 Tiburon Boulevard inclusive without the granting of a conditional use permit in compliance with section 16-52.040 (conditional use permits) and an exception in compliance with subsection 16-22.040.B.2 (exception for street-fronting ground floor office use in the VC zone and 1690 through 1698 Tiburon Boulevard).
- f. Emergency shelters in compliance with Section 65582 of the California Government Code (see section 16-40-060 [emergency shelters]).

2. Conditional uses permitted in the NC zone. The following uses shall be permitted only when a conditional use permit is granted, as provided in section 16-52.040 (conditional use permit). Additional uses, similar or accessory to those listed below, may be conditionally permitted by resolution of the commission.

Artist supply stores	Newsstands
Banks	Nursery for the propagation and/or sale of

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-30.030 - Setback requirements and exemptions.

- A. Purpose. This section provides standards for the use and minimum size of setbacks. Setbacks provide open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light, ventilation and direct sunlight; separation between incompatible activities; and space for privacy, landscaping, and recreation. Setbacks can also provide a sense of low density, spaciousness, and aesthetic pleasure.
- B. Setback requirements. Unless exempted in compliance with subsection E. below, all structures shall conform with the setback requirements established for each zone by article II (zones and allowable land uses), and with any special setbacks established for specific uses by this zoning ordinance, except as otherwise provided by this section.
- C. Measurement of setbacks. Required setbacks shall be measured horizontally from the front, side or rear property line as appropriate to the measurement, to a line parallel thereto at the nearest point of a structure on the site. On a site that is not rectangular or approximately rectangular in shape, required setbacks shall be determined by the director, and a record of such determination kept in the town building file.

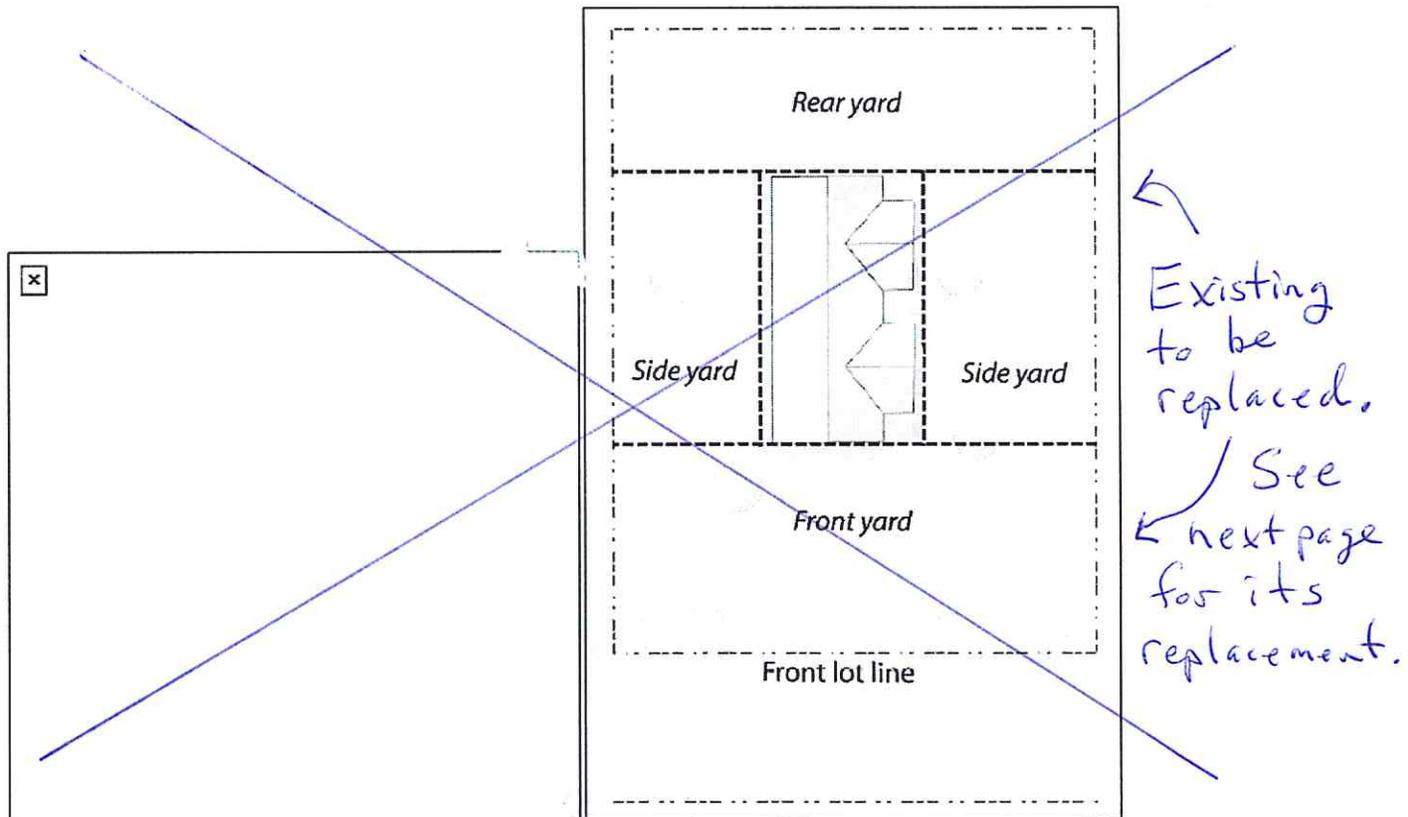


Figure 3-1. Yards

- D. Front setback reduction. Where more than half the lots on one block in the same zone have been improved with buildings, the required front setback on that block is the average of the front setbacks on improved lots, but need not exceed the minimum required front setback in that zone.
- E. Limitations on the use of setbacks.

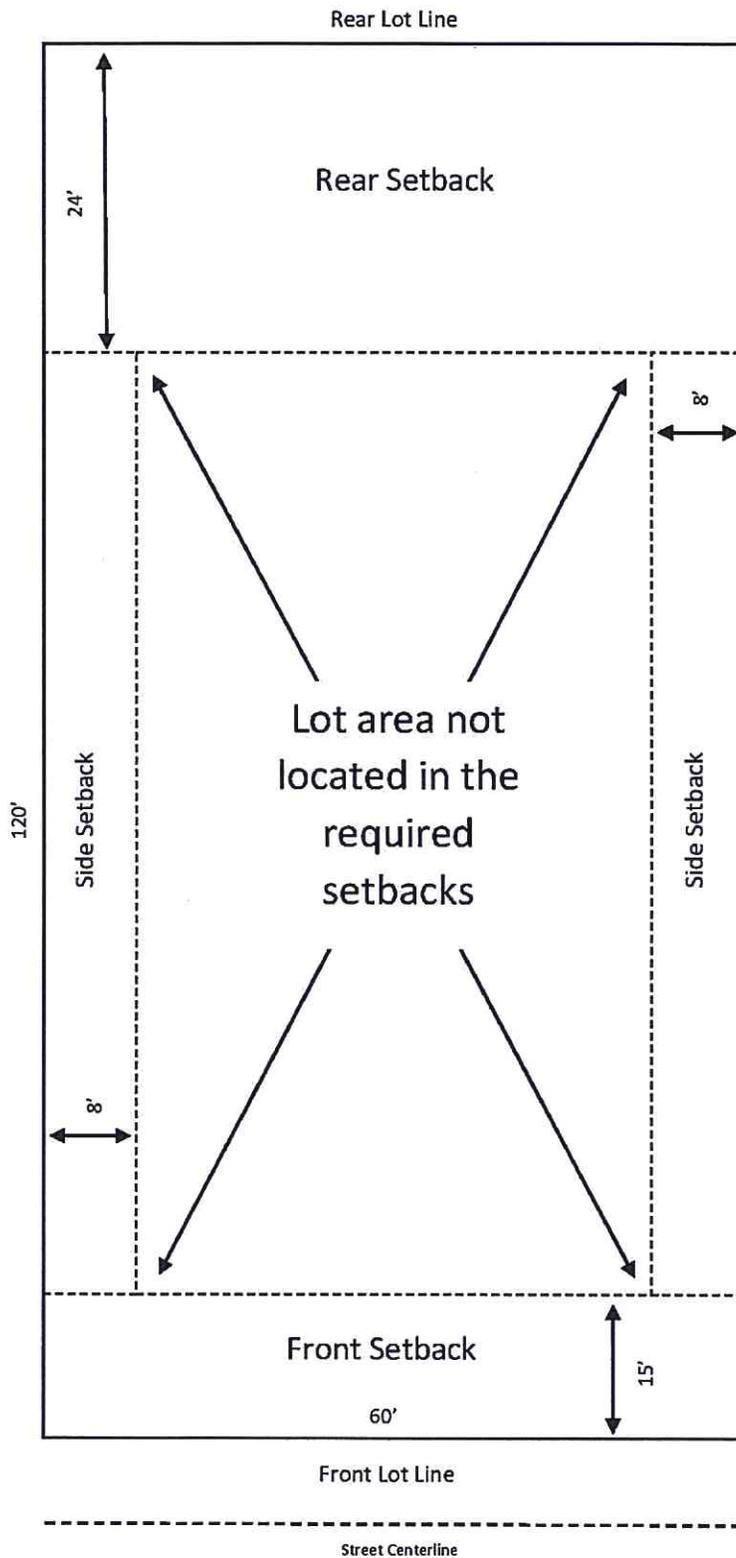


Figure 3-1. Setbacks (Example using R-1 zone setbacks)

E. Limitations on the use of setbacks.

1. Accessory structures. Required front and side setbacks shall not be used for the placement or erection of any accessory building in any zone. Detached accessory buildings not exceeding twelve feet in height may be located on a rear setback yard, provided that such buildings do not occupy more than twenty-five percent of the area of the rear setback yard. Swimming pools and spas may also be located on a rear setback yard, but not within a front or side setback yard.
2. Fences. See section 16-30.040 (fences and walls).
3. Landscaping. Landscape features such as patios, open grills, water features (other than swimming pools and spas), trellises, entry pergolas, and similar features may occupy any required setback. But in no case shall any obstruction be located in a public right-of-way without issuance of an encroachment permit.
4. Parking. The parking or storage of operable or inoperable vehicles in areas other than on an improved parking surface, as defined in article X (definitions), is prohibited.
5. Additional requirements.
 - a. Required setbacks shall not be encroached upon by movement or alteration of an existing main building.
 - b. Required accessory structure setbacks shall not be less than the minimum for any new main building, except as noted in subsection 1. above.
 - ~~c. Required setbacks shall not be considered as yard space for more than one main building.~~

F. Allowed projections into setbacks. Attached architectural features and certain detached structures may project into or be placed within a required setback in compliance with the following requirements:

1. The ordinary projection of sills, bay windows, cornices, architectural features and eaves may extend beyond the wall of the structure and into the front, side and rear setbacks; provided, however, that none shall project into a minimum setback more than three feet. In no case shall such projection encroach to within three feet of any property line.
2. The extension of structures such as chimneys, fire escapes, landing places, outside stairways and uncovered balconies, decks and porches may extend beyond the wall of the structure and into the front, side and rear setbacks; provided, however, that none shall extend into a required side setback more than three feet, nor into a required front or rear setback more than six feet. In no case shall such structures extend to within three feet of any property line.

G. Restrictions on the use of front ~~yard~~ setbacks in residential zones. In any residential zone, a front setback shall not be used for the storage of junk materials as described in article X (definitions) under the definition of "junkyard."

H. Vehicle entry gates. Vehicle entry gates shall be set back a minimum of fifteen feet from a private or public roadway, shared driveway, curb, gutter or sidewalk so as not to impede vehicular or pedestrian traffic. The review authority shall have reasonable discretion to require a larger setback distance, if circumstances warrant.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010; Ord. No. 541 N.S., § 2(M), 8-15-2012)

16-30.040 - Fences and walls.

- A. Applicability. The requirements of this section apply to all fences and walls, including fence/wall combinations, unless otherwise stated.
- B. Height limits. Fences and walls may occupy any required setback, provided that:

1. A fence, wall, or retaining wall greater than three and one-half feet in height shall not be erected without site plan and architectural review approval as provided in section 16-52.020 (site plan and architectural review).
2. A fence, wall, or retaining wall shall not exceed six feet in height in any setback, with the following exceptions:
 - a. A fence, wall or retaining wall may exceed six feet in height if all of the following conditions are met:
 - i. The fence and/or wall is located along a private residential property line shared with another private residential property;
 - ii. There is a difference in surface elevation between the two adjoining properties along the property line upon which the proposed fence and/or wall is to be located;
 - iii. The fence and/or wall would have a maximum height of six feet on the upper side of the structure; and a maximum height on the lower side of the structure of six feet plus the difference in surface elevation between the adjoining property yard-areas at the property line, but in no instance more than nine feet;
 - iv. The review authority determines that a fence and/or wall with a height of six feet on the lower side of the structure would not provide an effective privacy screen for the adjoining properties; and
 - v. The review authority determines that the proposed fence would not result in significant view obstruction or visual impacts on properties in the vicinity.
 - b. A safety railing on top of a retaining wall as required by the town's building code shall not count toward the measured height of the retaining wall if the building official determines that the location of the railing is necessary for safety purposes. Site plan and architectural review approval shall be required for such railings and walls as provided in section 16-52.020 (site plan and architectural review). Such railings are encouraged to be constructed either of transparent materials or be otherwise visually open in design.
3. Fences (including walls used as fences) shall not be located, designed, or constructed so as to impair safe vision from vehicles or of pedestrians.
4. If two or more fences and/or walls are constructed with a separation of three feet or less between the faces of the structures, the height of the respective structures shall be combined to determine the total wall or fence height. If the fences and/or walls are separated by a horizontal distance greater than three feet, the heights of the fences and/or walls shall be calculated separately.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-30.050 - Height limits and exceptions.

- A. Purpose. Height limits are important measures to protect privacy and views; to promote the adequate provision of sunlight, air, and visual safety; and to prevent the vertical overbuilding of properties.
- B. Maximum height. No building or structure shall be erected or altered to exceed the height limit established for the zone in which the structure is located. The height limit is a maximum, and is subject to reduction through the site plan and architectural review process, through precise development plan approvals, or through other permit approvals issued by the town.
- C. Height measurement. Height is the plumb vertical distance, measured using a plane, established by the lower of the natural or finished grade at the perimeter of the exposed exterior surface of the building, structure, fence, or wall. No point of the roof edge, fence, wall, parapet, mansard, structure,

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-30.080 - Recyclable materials collection and loading.

The design and location of all collection and loading areas for recyclable materials shall comply with the requirements of Municipal Code chapter 16C, also known as the recyclables collection area ordinance.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-30.090 - Storage and debris boxes.

- A. Purpose. The purpose of this section is to regulate the placement of storage and debris boxes on public and private property.
- B. General. Site plan and architectural review (section 16-52.020) approval shall be obtained for any storage or debris box not associated with an active building permit. In addition, an encroachment permit shall be obtained if the storage or debris box is not associated with an active building permit and is located on public property.
- C. Site plan and architectural review exceptions. Storage or debris boxes are exempt from the site plan and architectural review (section 16-52.020) and encroachment permit process as long as the following criteria are met:
 - 1. The storage or debris box is associated with construction on a property for which there is an active building permit.
 - 2. Debris boxes shall be on private property and off the street, unless there is no practical location for the debris box off-street as determined by the director.
 - 3. Storage boxes in all cases shall be located on private property and off the street.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-30.100 - Submerged and partially submerged land.

- A. Wholly submerged lands, and underwater portions of lands that are partially submerged, shall be considered conservation areas subject to the regulations of the M (marine) zone (divison 16-25), and of the San Francisco Bay Conservation and Development Commission (BCDC).
- B. The area of such lots that is below the mean high tide line shall not be used in the determination of lot coverage, floor area ratio, or any other land and structure regulation of the zone in which it is located, but submerged land under the same ownership may be applied toward the minimum lot area requirements and the required rear yard-setback of a lot.
- C. Land use changes in submerged and partially submerged land as allowed by subsection 16-25.030.B. (uses permitted with a tidelands permit in the M zone) shall require tidelands permit review in compliance with section 16-52-080 (tidelands permit).

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010; Ord. No. 541 N.S., § 2(N), 8-15-2012)

16-30.110 - Public utility lines.

- A. Public utility lines requirements. Public utility distribution lines, both overhead and underground, are permitted in all zones, subject to obtaining normal permits (see section 16-52.020 [site plan and

architectural review]), except where routine maintenance and repairs on existing lines are required, in which case no zoning permit is required.

- B. Undergrounding of utilities. The town requires undergrounding of utility connections for new construction and for remodel of existing structures, in compliance with Municipal Code chapter 12A (underground utility districts—extensions). The locations of new power transmission lines are to be approved by the town through site plan and architectural review (section 16-52.020).

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-30.120 - Lot legality and coverage.

A. Legality of lots and lot area requirements.

1. Legality of lots required for improvement. No building or structure shall be constructed on a lot that is not legally recognized. The purpose of this provision is to prevent the construction of improvements on lots that have been illegally subdivided or otherwise illegally created. This provision does not apply to improvements on any of the following:
 - a. A lot created by a valid recorded subdivision map;
 - b. A legal lot of record, provided that the lot is not subject to merger provisions of the State Subdivision Map Act;
 - c. A lot divided and conveyed by valid deed, written contract of sale, or similar means, executed prior to June 24, 1964 (when the town's subdivision ordinance was adopted), provided that the lot is not subject to merger provisions of the State Subdivision Map Act; or
 - d. A lot recognized by a recorded certificate of compliance wherein all conditions (if any) of said certificate of compliance are satisfied.
2. Lot area requirements.
 - a. Newly created lots shall have not less than the minimum area required by the land and structure regulations for the zone in which they are located. Any lot on which dwelling units are proposed shall also comply with any minimum lot area per unit requirement of its zone.
 - b. No existing lot shall be reduced in area so as to be smaller than required by this zoning ordinance, nor shall it be divided to create lots smaller than required by this zoning ordinance; if already smaller in dimension or area, it shall not be further reduced or divided.
3. Water and sewer requirements. Newly-created lots and unimproved lots shall be served for domestic purposes by the public water system, or in accordance with Municipal Code chapter 13F (water well construction and use); and by the public sewer system unless specifically exempted by the council.

B. Lot coverage.

1. Lot coverage measures the proportion of a lot that is covered by structures. Lot coverage limits help to promote the aesthetic qualities of spaciousness and privacy. Lot coverage limits can also help reduce excessive run-off and help provide usable outdoor yard spaces by restricting the horizontal overbuilding of properties. In traditional zones (R-1, R-1-B, R-2, R-3, RO), the percentage of any lot that may be covered by structures is specified in the land and structure regulations for that zone (see article II [zones and allowable uses]). Lot coverage in planned developments is usually established by the precise development plan or associated document.
2. Lot coverage is calculated by dividing the area occupied by the exterior limits of all structures exceeding three feet in height above the natural or finished ground surface, whichever is lower, by the total lot area, and multiplying by one hundred.

- c. No floor area exception shall be allowed for the project;
 - d. No lot coverage variance shall be allowed for the project;
 - e. No height variance shall be allowed for the project; and
 - f. No side setback yard or rear yard setback variances shall be allowed for the project.
- I. Action by review authority. The review authority may approve, approve with conditions, or deny any application for a detached two-family dwelling exception. In taking its action, the review authority shall make findings based on evidence in the record. The burden rests with the applicant to convince the board that the project has met the criteria necessary for approval.
- J. Appeal—expiration—reapplication.
- a. The decision of the review authority may be appealed to the council in compliance with the provisions of division 16-66 (appeals).
 - b. Detached two-family dwelling exceptions shall expire and become null and void three years after the date of approval unless a building permit has been issued before the date of expiration.
 - c. Following the denial of an application for a detached two-family dwelling exception, no application for the same or substantially the same exception shall be filed within one year of the date of denial unless the denial is made without prejudice.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-40.030 - Bed and breakfast inns (B&Bs).

This section establishes standards for the development and operation of bed and breakfast inns (B&Bs), where allowed by article II (zones and allowable land uses). The intent of these provisions is to ensure that compatibility between the B&Bs and any adjoining zone or use is maintained or enhanced.

- A. Permit requirement. B&Bs are allowable in the zones and with the permit requirements determined by articles II (zones and allowable land uses) and V (zoning permit procedures).
- B. Site requirements. Except for minimum lot size requirements, the proposed site shall conform to all standards of the applicable residential zone.
- C. Appearance. The exterior appearance of the structure used for the B&Bs shall be outwardly indistinguishable from that of a single-family residence.
- D. Limitation on services provided. Service shall be limited to the rental of bedrooms or suites and meal/beverage service shall be provided for registered guests only. Separate/additional kitchens for guests are not allowed. No receptions, private parties, retreats, or similar activities, for which a fee is paid, shall be allowed.
- E. Occupancy by permanent resident required. All B&Bs shall be occupied by at least one permanent resident.
- F. Signs. Signs shall be installed/maintained in compliance with Municipal Code chapter 16A (signs).
- G. Fire safety. A B&B shall comply with applicable fire district regulations.
- H. Parking. On-site parking shall be provided in compliance with division 16-32 (parking and loading standards). One parking space shall be provided for each guest room plus two covered spaces for the resident family.
- I. Business license. A B&B shall have a valid business license from the town.

- a. Location requirements. No residential property shall be bordered on more than one side by a large family day-care facility. The director shall also determine that the proposed facility will not result in an over concentration of child-care facilities to the detriment of the neighborhood.
 - b. Passenger loading area. A drop-off and pick-up area shall be established to ensure that children are not placed at risk and street traffic is not unduly interrupted. The driveway may serve as a drop-off area, provided that the driveway is not required to remain available for resident or employee parking.
 - c. Parking. Adequate off-street parking shall be available to accommodate residents of the site and all employees, staff and/or volunteers engaged at the child-care facility. On-street parking may be substituted for the required off-street parking for employees and/or volunteers if the applicant can demonstrate to the satisfaction of the director that there is adequate on-street parking for this purpose in the immediate area without creating a parking problem for adjacent uses.
 - d. Signs. All signs shall be in compliance with Municipal Code chapter 16A (signs).
2. Standards for child day-care centers. The following standards apply to child day-care centers in addition to the standards in subsection D.1, above.
- a. Fencing. A six-foot high fence or wall shall be constructed on all property lines or around the outdoor activity areas, except in the front setback yard or within a traffic safety visibility area. All fences or walls shall provide for safety with controlled points of entry in compliance with section 16-30.040 (fences and walls).
 - b. Outdoor lighting. On-site exterior lighting shall be allowed for safety purposes only, shall consist of low wattage fixtures, and shall be directed downward and shielded, subject to the approval of the director.
 - c. Swimming pools/spas prohibited. No swimming pool/spa shall be installed on the site after establishment of the child day-care center, due to the high risk and human safety considerations. Any pool/spa existing on the site prior to application for approval of a child day-care center shall be removed prior to establishment of the use, unless the director determines that adequate, secure separation exists between the pool/spa and the facilities used by the children.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-40.060 - Emergency shelters.

- A. Applicability. Where allowed by article II (zones and allowable land uses) emergency shelter facilities shall comply with the standards of this section.
- B. Performance standards. An emergency shelter shall meet the following development and performance standards:
 - 1. On-site management and on-site security shall be provided during hours when the emergency shelter is in operation.
 - 2. Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible with the surrounding area.
 - 3. The development may provide one or more of the following specific common facilities for the exclusive use of the residents and staff:
 - a. Central cooking and dining room(s).
 - b. Recreation room.

(Ord. No. 554 N.S., § 2(C), 2-18-2015)

16-42 - Wireless Communications Facilities

Sections:

16-42.010 - Purpose.

The purpose of division 16-42 is to establish a comprehensive set of zoning requirements for antennas and wireless communication facilities (hereinafter "WCFs"). These regulations are intended to provide for the managed location and development of antennas and WCFs in a manner that recognizes and enhances the community benefits of wireless communication technology and reasonably accommodates the needs of citizens and wireless communication service providers in accordance with federal and state rules and regulations, while at the same time protecting neighbors from potential adverse impacts of such facilities, preserving the visual and other characteristics of the established community and the natural beauty of hillsides and ridgelines.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-42.020 - Definitions.

The technical terms and phrases used in division 16-42 are defined in article X (definitions) under "wireless communications facilities."

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-42.030 - Applicability.

Exemptions. The requirements imposed by this division shall not apply to certain antennas or antenna structures, as set forth in this section, unless otherwise specified herein. Each such exempt facility listed in this section shall fully comply with any other applicable requirements of the Municipal Code to the extent not specially exempted in this section, including but not limited to the California Building Code, California Electrical Code, California Plumbing Code, California Mechanical Code, and California Fire Code.

1. Direct broadcast satellite (DBS) antennas and multipoint distribution services (MDS) antennas measuring one meter or less in diameter (or diagonal measurement);
2. Television broadcast system (TVBS) antennas provided: (1) the antenna is located entirely on and/or above the subject property; and (2) no portion of any ground-mounted antenna is within a required front ~~yard~~-setback for the main building, in front of the main building, within a required side ~~yard~~-setback of a corner lot, or adjacent to a street. All TVBS antennas greater than three feet in height shall require site plan and architectural review and building permits in compliance with the Municipal Code for review of placement to ensure that maximum safety is maintained;
3. Satellite earth station (SES) antennas measuring two meters or less in diameter (or diagonal measurement) located on a property within any commercial office or public zone, provided that: (1) the antenna is located entirely on and/or above the subject property; and (2) no portion of any ground-mounted antenna is within a required front ~~yard~~-setback for the main building, in front of the main building, within a required side ~~yard~~-setback of a corner lot, or adjacent to a street. All SES antennas measuring more than one meter in diameter shall require site plan and

also impose such other conditions as it may deem necessary to achieve these purposes, including but not limited to, the following:

1. Special setback yard, open spaces and buffers;
2. Fences and walls;
3. Surfacing of parking areas and specifications therefore;
4. Street dedications and improvements, including provisions of service roads or alleys when practical, and necessary dedications of utility easements, sites for public use, and to preserve open space;
5. Regulation of points of vehicular ingress and egress;
6. Regulation of special parking needs or controls;
7. Landscaping and maintenance thereof;
8. Maintenance of grounds;
9. Control of noise, lighting, vibration, odors, and other potentially dangerous or objectionable elements;
10. Limits on time for conduct of certain activities;
11. Time period in which the proposed use shall be developed or commenced;
12. Final review by the design review board, if appropriate;
13. Time period in which the use will be reviewed; and
14. Such other conditions as will make possible the development of the town in an orderly and efficient manner and in conformity with the interest and purposes set forth in this zoning ordinance and the general plan.

The commission may require such guarantees as it deems necessary to ensure that such conditions will be met.

- K. Off-street parking and loading requirements. The requirements for provision of off-street parking and loading applicable to the particular use shall prevail, unless in the findings and conditions recited in the resolution, specific additional requirements are made with respect thereto.
- L. Setbacks, height and area requirements. The provisions for required front, rear, and side setbacks and requirements for height and area applicable to the particular zone in which any use is proposed to be located shall prevail, unless, in the findings and conditions recited in the resolution, specific additional requirements are made with respect thereto.
- M. Appeals. The action of the commission may be appealed in compliance with the provisions of division 16-66 (appeals).
- N. Reapplication. A reapplication for a conditional use permit shall not be filed within one year from the date that the conditional use permit was revoked or denied. The only exceptions to this are when there has been a substantial change in circumstances or the denial was made without prejudice.
- O. Issuance of conditional use permit. An application for conditional use permit approved by the review authority will become effective only after the expiration of the appeal period provided by this zoning ordinance.
- P. Expiration of conditional use permit.
 1. Conditional use permits issued in compliance with this section shall expire and become null and void one year after their effective date unless the authorized use has been commenced or an extension has been granted.

16-62.020 - Definitions.

- A. Legal nonconforming use defined. A "legal nonconforming use" is a use of a structure or land that was lawfully established and maintained prior to the adoption of this zoning ordinance, but which no longer conforms to the use regulations set forth herein. An example of a legal nonconforming use would be a multi-unit apartment building located in a single-family or two-family residential zone, or a commercial use located in any residential zone.
- B. Legal nonconforming structure defined. A legal nonconforming structure is a structure that was lawfully erected prior to the adoption of this zoning ordinance, but that no longer conforms to the standards of coverage, setbacks, height, distance between structures, or other prescribed regulation applicable under this zoning ordinance.
 - 1. Examples of a nonconforming structure could be:
 - a. A residence taller than thirty feet that did not receive a variance to be built higher than thirty feet;
 - b. A lot in an RO-1 zone that exceeds fifteen percent lot coverage and that did not receive a variance to exceed the fifteen percent lot coverage limit; or
 - c. A building with a setback less than that required in its zone and that did not receive a variance for the reduced setback yard area.
 - 2. A structure shall not be considered nonconforming where its apparent nonconformity results solely from a variance, adjustment, or conditional use permit granted by the town or by the County of Marin and subsequently vested. Records of these permits may be on file in the department.
 - 3. Lawfully existing structures shall not be considered nonconforming solely on the basis of floor area guidelines described in subsection 16-52.020.I (Floor area ratio guidelines).

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-62.030 - Restrictions on nonconforming structures and uses.

A nonconforming land use and the use of a nonconforming structure may be continued, including transfers of ownership, provided that their continuation shall comply with the requirements of this section.

- A. Nonconforming use of land. A nonconforming use of land may continue to be used as follows:
 - 1. Maintenance and repairs. Legal nonconforming uses, as defined above, and the structures they occupy, may continue to be operated and occupied except as provided in subsection A.2 below. Routine maintenance and repairs may be performed on land or structures containing a nonconforming use.
 - 2. Expansion and alteration.
 - a. No nonconforming use shall be moved, altered, enlarged, or extended in any way that would increase the nonconformity, unless the purpose of such change is to eliminate the nonconformity, and as otherwise set forth in subsection B. (Nonconforming structure). This provision shall include structures containing nonconforming uses.
 - b. A nonconforming use of a structure or site shall not be changed to another nonconforming use.
 - 3. Termination of nonconforming status by discontinuance. Whenever a nonconforming use has been discontinued for a continuous period of one year, the nonconforming use shall

Sections:

16-100.010 - Purpose.

- A. The following definitions shall be used in the interpretation of this zoning ordinance. Terms and phrases used in this zoning ordinance that are technical or specialized, or that may not reflect common usage, are defined herein.
- B. If any of the definitions in division 16-100 conflicts with definitions in other provisions of the Municipal Code, the former shall control for the purposes of this zoning ordinance. If a word is not defined in division 16-100, or in other provisions of the Municipal Code, the director shall determine the correct definition. Should there be any difference between the following definitions and those in other sections of this zoning ordinance, the more detailed and specific definition shall take precedence, unless otherwise determined by the director.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010)

16-100.020 - Definitions of specialized terms and phrases.

As used in the zoning ordinance, the following terms and phrases shall have the meaning ascribed to them in this section unless the context in which they are used clearly requires otherwise.

A. Definitions, "A."

"Abuts" or "abutting". Having a common line, or separated only by a private or public street, alley, or easement.

"Access corridor". The portion of a flag lot providing access from the street, except that no portion of a site having side lot lines radial to the center or curvature of a street from the street property line to the rear lot line shall be deemed an access corridor. The area of an access corridor shall not be included in determining the area of a site, and the depth of an access corridor shall not be included in determining the depth of a front setback yard.

"Accessory building or structure". A building or structure that is subordinate to the main building on the same site, or the use of which is incidental to the use of the site or the use of the main building on the site. A building that shares a common wall with a main building shall be deemed a part of the main building. A building or structure that is used as a secondary dwelling unit is not an accessory building or structure. (See "setback.")

"Accessory use". A use customarily incidental, related, and subordinate to the principal legal use of the parcel or lot and located on the same. A secondary dwelling unit is not an accessory use.

"Affordable housing". See "inclusionary housing."

"Affordable unit". A dwelling unit affordable to households of very low, low, or moderate-income as determined by the housing authority.

"Agent of owner". A person authorized in writing by the property owner to represent and act for a property owner in contacts with town employees and officials regarding matters regulated by this zoning ordinance.

"Agriculture". The keeping of livestock; the breeding and raising of bees, fish, poultry or other fowl; the planting, raising, harvesting or producing of agricultural, aquacultural, horticultural, or forestry crops; or similar activity; excluding a household garden and a private, noncommercial vineyard less than one-quarter acre in area. For the purposes of this chapter, except where specifically exempted, the interpretation of what constitutes "agriculture" is intended to be broadly applied and widely encompassing.

F. Definitions, "F."

"Family". One or more persons occupying a dwelling and living as a single, domestic housekeeping unit, as distinguished from a group occupying a hotel or motel, club, fraternity or sorority house.

"Feasible". Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

"Fence". A man-made barrier that provides privacy and/or limits passage. Fences may be continuous or open at intervals. Fences that exceed three and one-half feet in height shall be considered "structures" as defined in this zoning ordinance.

"Firearms sales". A business licensed to sell, lease or transfer firearms or ammunition pursuant to California Penal Code Sections 26700 to 26915 and 30300 to 30365, or successor sections thereto.

"Floor area, gross". "Gross floor area" means the sum of all enclosed or covered areas of each floor of the building, measured to the exterior faces of the enclosing walls, columns, or posts.

NOTE: The term "capable of being used or finished for habitable space" is used below. A space shall be considered "capable of being used or finished for habitable space" if it meets California Building Code occupiable ceiling height requirements and is all of the following:

1. Covered by a solid, weatherproof roof or floor; and
2. At least fifty percent of the vertical area around the space is closed.

Gross floor area shall not include the following six areas:

1. For residential uses, the first six hundred square feet of garage or carport space on properties less than or equal to sixty thousand square feet in area; or the first seven hundred fifty square feet of garage or carport space on properties greater than sixty thousand square feet in area; or the first two hundred fifty square feet of garage or carport space for each parking space required in compliance with parking requirements from section 16-32.040 (number of parking spaces required);
2. Areas permanently open to the sky;
3. Exterior areas under roof eaves or other cantilevered overhangs;
4. Attic spaces and underfloor spaces that are not capable of being used or finished for habitable space;
5. Basements, as defined in this zoning ordinance; and
6. Floor areas of roofed or covered open spaces (such as breezeways, balconies, porches and similar spaces), which are not capable of being used or finished for habitable space, if at least fifty percent of the vertical area around the space is fully open.

Gross floor area shall include the following:

1. Unfinished loft spaces and other areas capable of being used or finished for habitable space;
2. Other roofed or covered spaces (such as breezeways, balconies, porches, or similar spaces) that are capable of being used or finished for habitable space, if less than fifty percent of the vertical area around the space is fully open;
3. Roof penthouses; mezzanine floor areas; and accessory buildings;
4. All crawl space area with a minimum height of seven feet when measured from finished or natural grade (whichever is lower) to the bottom of the floor above. This definition shall only apply to crawl space created after March 31, 2006; and

5. All space with a minimum height of seven feet beneath a cantilevered portion of other floor area of a dwelling unit. This definition shall only apply to such space created after March 31, 2006.

Unless otherwise stipulated, the term "floor area" shall mean gross floor area.

"Floor area ratio (FAR)". For residential uses, the floor area ratio is specified in table 5-2 as described in subsection 16.52.010(I). For nonresidential uses, the floor area ratio is the gross floor area of the building or buildings on a lot, divided by the area of the lot.

"Front setback". An area extending across the full width of a lot or parcel, the depth of which is the minimum distance from the front lot line (see "Lot line, front") as set forth in article II of this chapter for the zone in which the lot or parcel is located.

"Frontage". The property line abutting on a street. On a corner lot or a flag lot, or on a double-frontage lot, the lot line closest to the point of access to the lot, and/or the lot line abutting the principal street, as determined or approved by the director. The term also includes front lot line (see figure 10-1 and 10-2 below, under "lot").

G. Definitions, "G."

"Garage". An accessory building or portion of a main building, enclosed on three or more sides, designed or used primarily for the shelter or storage of automobiles and/or other vehicles.

"General plan". The comprehensive plan as adopted by the town in compliance with the California Government Code Section 65302, or successor sections thereto.

"Grade". The natural surface of the ground, or the finished ground surface, whichever is lower, but in no case lower than the minimum flood grade elevations adopted by the town (See "Height.") The director or board may determine the grade in the case of unusual project conditions.

"Ground surface". See "Grade."

"Guest house". Living quarters within a detached accessory building for use by guests of the occupants of the premises, such quarters having no kitchen or cooking facilities and not otherwise used or usable as a separate dwelling unit.

"Guest room". A room without kitchen facilities that is intended, arranged, or designed to be occupied, or which is occupied, by one or more guests, and is not rented or otherwise used as a separate dwelling unit.

"Guidelines". Design review guidelines, Town of Tiburon Design Guidelines For Hillside Dwellings and General Design Guidelines for New Construction and Remodeling (Hillside Design Guidelines), Downtown Tiburon Design Handbook, or any other guidelines adopted by resolution of the town council.

H. Definitions, "H."

"Handicapped accessible unit". A dwelling unit that meets all the special requirements as set forth in federal and state law for handicapped persons.

"Hearing, public". "Public hearing" means a duly noticed hearing held subject to the provisions herein, for the purpose of obtaining public opinion and comment upon an application or other matter before the board, commission, or council.

"Height". The plumb vertical distance, measured using a plane, established by the lower of the natural or finished grade at the perimeter of the exterior surface of the building, structure, fence, or wall. No point of the roof edge, fence, wall, parapet, mansard, structure, or other building feature shall extend above the plane established by the maximum height line from grade, except as specifically excluded in subsection 16-30.050.D (exceptions to height limits).

"Hen". A mature female chicken.

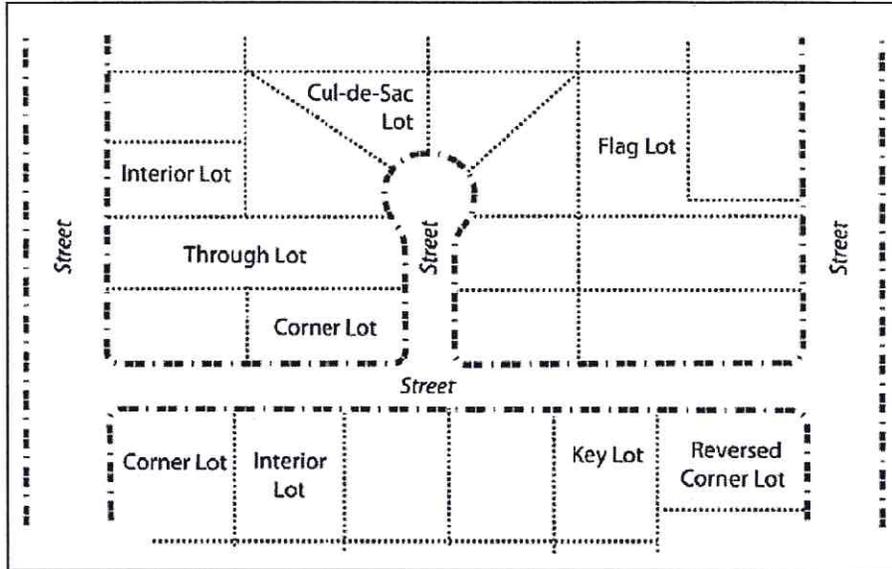


Figure 10-2 Lot Types

5. Key lot. The first interior lot to the rear of a reversed corner lot.
6. Reversed corner lot. A corner lot, the rear yard of which abuts the side setback yard of another lot.

"Lot area". The total area included within the boundary lines of a lot, exclusive of the area of access corridors or portions of the lot within existing or planned street lines. See Figure 10-2 above.

"Lot coverage". The percentage of a lot or parcel that is covered by structures. (Refer to subsection 16-30.120.B (lot coverage) for detailed information on the calculation of lot coverage.)

"Lot line". The lines bounding a lot as defined herein.

"Lot line, front". "Front lot line" means the line of an interior lot separating it from a street at or closest to the access to the lot, except (1) as otherwise defined under "frontage", or (2) when a front property line falls within a street right-of-way or roadway easement, the front lot line shall be the street right-of-way or roadway easement line within the property. (See also "yards.")

"Lot line, rear". "Rear lot line" means a lot line that is opposite and most distant from the front lot line. On an irregular lot that is not of extreme configuration, the rear lot line shall coincide with the rear property line. In the case of an extremely irregular or triangular shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line shall be the rear lot line (see figures 10-3 and 10-4 on the following page). In the case of lots within the marine zone, the rear lot line is the mean high tide line.

"Lot line, side". "Side lot line" means the line of an interior lot separating it from another lot and the line of a corner lot separating the line of that lot adjacent to the frontage from a street, except (1) as otherwise defined under "frontage", or (2) when a street side property line falls within a street right-of-way or easement, the side lot line on that side shall be the easement or right-of-way line within the property.

"Lot of record". A lot created prior to current subdivision map requirements and in compliance with the applicable subdivision regulations in effect at that time.

"Play equipment". Equipment intended to be used for play purposes on residential property, including basketball standards, swing sets, and similar recreational equipment.

"Play structure". A portable (not permanently installed into the ground) structure intended to be used by children for play purposes on residential property.

"Precise development plan". A plan submitted by a property owner, or his legal representative, specifically showing the proposed improvement of a property including the site plan, preliminary engineering data, building concepts, landscaping plan, and other information as required in section 16-52.060 (precise development plan).

"Preschool". See "child day-care center".

"Prezoning". A zoning designation, formally adopted by the town, that applies to unincorporated territory adjoining the town or within its Planning Area, that would become effective upon annexation. Prezoning has no regulatory effect until the property is annexed. See section 16-68.030 (prezoning and annexation).

"Principal use". The primary purpose or function that a lot serves or is intended to serve.

"Private residential recreation facilities". A noncommercial club or recreation facility, civic club, or veteran organization, when located in a single-family dwelling.

"Property". A parcel or lot, unless otherwise specified herein.

"Property area". See "lot area."

"Property line". The boundary defining the ownership of any parcel of land, including a public right-of-way but not including a limit of ownership within a public right-of-way.

"Public use". Any use that is available to the general public and/or owned by the general public.

"Public/quasi-public use". A land use including educational facilities; governmental and quasi-public buildings or facilities; utility facilities; and similar facilities owned or operated by public or non-profit agencies.

Q. Definitions, "Q."

No specialized terms beginning with the letter "Q" are defined at this time.

R. Definitions, "R."

"Real estate tract office". A dwelling temporarily occupied by an office use for the intent of conducting real estate sales for a development project under construction in which the dwelling is located.

"Rear Setback". An area extending across the full width of a lot or parcel, the depth of which is the minimum distance from the rear lot line (see "Lot line, rear") as set forth in article II of this chapter for the zone in which the lot or parcel is located.

"Recreation, public". Any recreation use owned or operated by a public agency, with or without charging a fee.

"Recreational vehicle". A motor home, travel trailer, truck camper or camping trailer, with or without motive power, originally designed for human habitation for recreational, emergency or other occupancy, which meets all of the following criteria:

1. It contains less than three hundred twenty square feet of internal living room area, excluding built-in equipment, including wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms;
2. It contains four hundred square feet or less of gross area measured at maximum horizontal projections;
3. It is built on a single chassis; and

3. Owner of record. The owner of at least fifty percent interest in the subject real property.
4. Primary unit. The building (or portion of the building in cases of an attached secondary dwelling unit) in which the principal residential use of the lot takes place. A secondary dwelling unit cannot constitute the primary unit.
5. Principal place of residence. A dwelling unit that is occupied by the owner of record as a primary place of residence.

"Secretary of the board". The director of community development or his designee.

"Secretary of the planning commission". The director of community development or his designee.

"Service station". A place for the retail sale of gasoline or other motor vehicle fuels, which may also include services incidental to fuel sales. These incidental services may include vehicle engine maintenance and repair, towing and trailer rental services. Does not include the storage or repair of wrecked or abandoned vehicles, vehicle painting, body or fender work, or the rental of vehicle storage or parking spaces.

"Setback". A line within a lot depicting the limits of the required yard areas. A portion of a lot or parcel in which certain uses, buildings or structures are regulated or restricted. Setback distances are based on the zone in which the lot or parcel is located. See article II for specifics and see section 16-30.030C (Figure 3.1) for a graphic representation. See also "Front setback", "Rear setback", and "Side setback".

"Side setback". An area extending from the front setback to the rear setback of the lot or parcel, the width of which is the minimum distance from the side lot line (see "Lot line, side"), as set forth in article II of this chapter for the zone in which the lot or parcel is located.

"Sidewalk". A paved walkway adjacent to a street or road.

"Significant (secondary) ridgeline". A ridgeline other than the Tiburon Ridge, as identified and described in the general plan open space and conservation element.

"Site". A parcel of land or portion thereof with access to a street, devoted to or intended for use or occupied by a structure or a group of structures. (See also "lot" and "parcel.")

"Site area". See "lot area."

"Site plan and architectural review". A type of zoning permit procedure used by the town. Refer to section 16-52.020 (site plan and architectural review).

"Slope". The natural ground slope of a lot or parcel. Percent of slope shall be measured along a line passing through the center of the lot or parcel, or through the building site, between lot lines and perpendicular to the natural contours; this choice shall be made by the director.

"Special needs household". A household with identified special needs, including, but not limited to:

- a. Single-person household (smaller units);
- b. Single-parent household (smaller units);
- c. Senior household (including assisted housing and board and care);
- d. Large family household (minimum of three bedrooms);
- e. A household with people with disabilities (handicapped persons).

"Special setback". A setback different than normally required pursuant to article II of this chapter that is required through the course of a conditional permit or other discretionary zoning permit review.

12. Antenna structure, freestanding. An antenna structure or mast that is not attached to a building, fence, or other such structure. Freestanding antenna structures include communications towers, wooden utility poles, standard or decorative concrete, and steel monopoles. If the total height of the structure, including the antenna, exceeds fifteen feet, it shall be treated as a monopole.
13. Antenna structure, monopole. A ground-mounted antenna structure, often tubular in shape, made of metal, reinforced concrete, or wood, which exceeds fifteen feet in height.
14. Electromagnetic field (EMF). A field of radiation produced by all electromagnetic waves, from gamma rays to radio waves. The EMF produced by wireless communication facilities is radio frequency (RF) radiation.
15. Related equipment. All equipment appurtenant to the transmission and/or reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable conduit and connectors, equipment pads, equipment shelters, cabinets, buildings, and access ladders.
16. Satellite dish. See "satellite antenna" under "antenna, satellite."
17. Visually inevent. That any component of a WCF, while possibly visible to a person with normal vision from street level, is such that it is not visually distinguishable as an antenna or other components of a WCF due to sufficient camouflage, design, screening, building or architectural integration, or other factors.
18. Wireless communication facility—Co-located. A wireless communication facility comprised of a single telecommunication tower or building supporting one or more antennas or similar devices owned or used by more than one public or private entity.
19. Wireless communication facility—Shared location. More than one telecommunications facility comprised of multiple antenna structures and other structures used for the support of antennas operated by one or more carriers where such antenna structures and other structures are located on the same lot or parcel.
20. Wireless communication facility standards. A set of standards, adopted by resolution of the town council, applying generally to review of applications for wireless communication facilities.

X. Definitions, "X."

No specialized terms beginning with the letter "X" are defined at this time.

Y. Definitions, "Y."

"Yard". When used in the context of a physical portion of a lot or parcel, "yard" is synonymous with "setback".

~~"Yard". An open area on the same site as a main building, unoccupied and unobstructed from the natural ground upward except as otherwise provided in this Zoning Ordinance, including a front yard, side yard, rear yard, or unobstructed area between structures. See also "setback," and section 16-30.030 (setback requirements and exceptions). See figure 10-5.~~

- ~~1. Front yard or setback. An area extending across the full width of a lot, the depth of which is the minimum distance separating the front line (as defined herein) and the main building on the lot.~~
- ~~2. Rear yard or setback. An area extending across the full width of a lot, the depth of which is the minimum distance separating the rear lot line (as defined herein) and the main building on the lot.~~

3. ~~Side yard or setback. An area from the rear to the front yard of the lot, the width of which is the minimum distance separating the side lot line (as defined herein) and the main building on the lot.~~

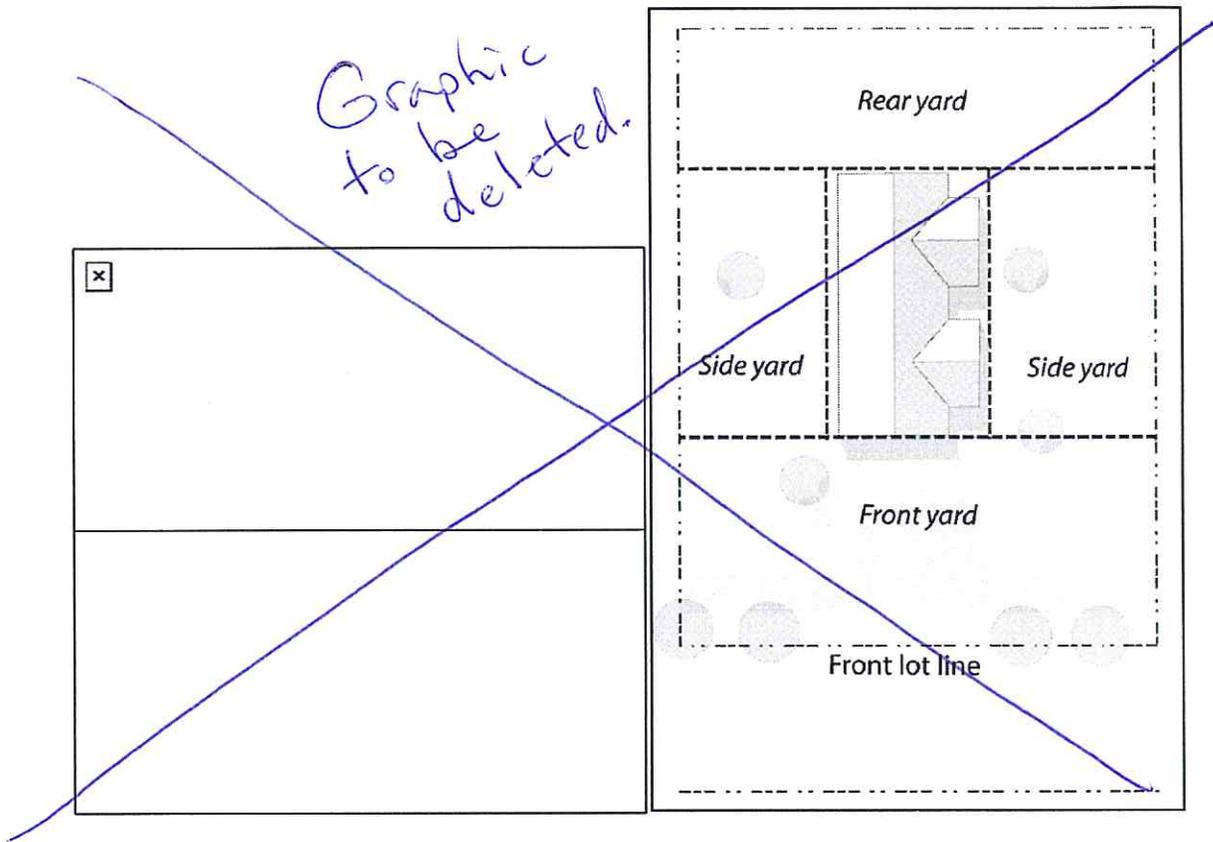


Figure 10-5 Yards

Z. Definitions, "Z."

~~"Zone". An area within which certain uses of land and buildings are permitted and certain others are prohibited, yards and other open spaces are required, lot areas, building height limits, and other requirements are established.~~ "Zone". An area within which certain uses of land, buildings and structures are permitted and certain others are regulated or prohibited; setbacks are required, and lot areas, building height limits, and other requirements are established.

"Zoning map". The map entitled, "Town of Tiburon Zoning Map" (see section 16-14.020 [zoning map]).

"Zoning permit". Any permit required by the terms of this zoning ordinance.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010; Ord. No. 524 N.S., § 1E, 3-2-2011; Ord. No. 541 N.S., §§ (FF)1—4, 8-15-2012; Ord. No. 542 N.S., §§ 2(B)(1), (2), 8-15-2012; Ord. No. 552 N.S., § 2(B), 9-3-2014; Ord. No. 554 N.S., § 2(G), 2-18-2015; Ord. No. 555 N.S., § 2(F), 2-18-2015)

- c. Referral for determination. The director may refer the question of whether a proposed use qualifies as a similar and compatible use directly to the commission for a determination at a public meeting.
 - d. Appeal. A determination of additional uses, similar or accessory to those allowed, may be may be appealed in compliance with division 16.66 (appeals).
4. Prohibited uses.
- a. Marijuana Dispensaries are prohibited in all zones.
 - b. Marijuana Cultivation is prohibited in all zones.
 - c. The sale of marijuana is prohibited in all zones.
- B. Permit requirements. Division 16-21, table 2-1; section 16-21.030; section 16-22.030; section 16-23.030; section 16-24.030; section 16-25.030; section 16-26.030; section 16-27.030; and section 16-28.030 provide for land uses that are:
- 1. Allowed subject to compliance with all applicable provisions of this zoning ordinance, including site plan and architectural review, where required, and subject to first obtaining any building permit or other permit required by the Municipal Code;
 - 2. Allowed subject to the approval of a conditional use permit (section 16-52.040); and
 - 3. Not allowed in particular zones.

A land use authorized through the approval of a conditional use permit may also require site plan and architectural review approval (16-52.020), a building permit, or other permit required by the Municipal Code. Uses listed as allowed by a conditional use permit, as determined by the director or commission as conforming to the purposes of such zone, are not permitted in such zone unless a conditional use permit has been granted.

(Ord. No. 519 N.S., § 3(Exh. A), 3-17-2010; Ord. No. 552 N.S., § 2(A), 9-3-2014)

16-20.040 - Exemptions from zoning permit requirements.

The zoning permit requirements of this zoning ordinance do not apply to the land uses, structures, and activities identified by this division. These are allowed in all zones subject to compliance with this division.

Exempt activities and land uses. The following are exempt from the zoning permit requirements of division 16-21, table 2-1; section 16-21.030; section 16-22.030; section 16-23.030; section 16-24.030; section 16-25.030; section 16-26.030; section 16-27.030; and section 16-28.030. The following are also exempt from site plan and architectural review in compliance with section 16-52.020 (site plan and architectural review), unless otherwise noted.

- 1. Decks and platforms less than three feet above grade; paths. Decks and platforms and their associated components that do not constitute a "structure" as defined herein; paths that do not require a building or grading permit.
- 2. Fences and walls three and one-half feet (forty-two inches) or less in height. See section 16-30.040 (fences and walls).
- 3. Interior remodeling. Interior alterations that do not increase the gross floor area of the structure, change the permitted use of the structure, or result in any physical exterior alterations to the structure.
- 4. Repairs and maintenance.

- J. Reporting of violations. All reporting of junior accessory dwelling unit violations shall be in writing and directed to the department. The director shall notify the owner of record of the property that a complaint has been registered within ten calendar days from receipt of any such complaint. The director shall investigate and issue a written report to the complainant within thirty days from the date of the issuance of the notice outlining the current status of any alleged violation and the steps that have been requested of the owner of record to remedy the situation.
- K. Violations considered an infraction. Violations of this section shall be punished as infractions or by administrative citation, in the discretion of the director and shall be subject to the provisions of section 16-56.030 (violations and penalties) and/or Municipal Code chapter 31 (enforcement of code). This subsection also applies to violations of requirements of operation issued in association with any junior accessory dwelling unit approval.
- L. Violations—Additional remedies—Injunctions. As an additional remedy, the existence and/or maintenance of any junior accessory dwelling unit in violation of any provisions herein, or of any requirements of operation placed thereon, shall be cause for revocation and shall be deemed and is declared to be a public nuisance and may be subject to summary abatement (i.e., including, without limitation, administrative abatement in compliance with Municipal Code chapter 31), and/or restrained and enjoined by a court of competent jurisdiction. In the event legal action is instituted to abate said violation, the town shall be entitled to recover its costs and reasonable attorney's fees incurred in prosecuting said action.
- M. Appeals. Any person aggrieved by any decision involving the approval, denial, or revocation of a junior accessory dwelling unit may appeal such decision to the town council in compliance with division 16-66 (appeals).
- N. Density. Pursuant to California Government Code section 68552.2, no junior accessory dwelling unit approved under these provisions shall be considered in calculating the density of the lot allowed by the land use designation contained in the land use element of the Tiburon General Plan.

(Ord. No. 555 N.S., § 2(C), 2-18-2015)

16-52.110 - Home occupations.

- A. Application and fee. Application for a home occupation permit shall be made in compliance with the provisions of division 16-50 (application filing and processing), and shall be accompanied by the appropriate fee. A home occupation permit is required for any use defined as a home occupation.
- B. General criteria. Home occupations shall be limited to the following uses:
 - 1. Art and craft work (ceramics, painting, photography, sculpture, etc.);
 - 2. Tailors, sewing, etc.; and
 - 3. Office-only uses, including an office for an architect, attorney, consultant, counselor, insurance agent, planner, tutor, writer, etc., and electronic commerce.
 - 4. Firearms sales, as defined in article X of this chapter, are not permitted as a home occupation.

Home occupations also includes any other uses which may be determined by the review authority to be of the same general character as the above occupations, and not objectionable or detrimental to the zone in which they are located.

- C. Operating standards. Home occupations shall meet the following requirements:
 - 1. No significant additional traffic shall be created in the neighborhood;
 - 2. Adequate parking shall be maintained;

Candy stores	Paint and wallpaper stores
Clothing and costume rental establishments	Pet shops
Commercial place of amusement	Photographic supply stores
Dry goods stores	Photography studios
Dwelling units	Picture framing
Florists	Printing shops
Establishment serving any alcoholic beverage for consumption on the premises	Radio and TV sales and service stores
<u>Firearms sales</u>	Restaurant
Furniture stores, new and unfinished	Service station
Garden supply stores	Shoe stores
Grocery stores	Sporting good stores
Hobby stores	Stamp and coin stores
Hotels and motels	Stationary stores
Household appliance stores	Supportive housing
Interior decorating shops	Tailor and dressmaking shops
Jewelry stores	Theaters and playhouses
Leather goods and luggage shops	Toy stores
Liquor or drug stores	Transitional housing
	Travel bureaus

RESOLUTION NO. 2016-DRAFT

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE TOWN OF TIBURON RECOMMENDING TO THE TOWN COUNCIL ADOPTION
OF TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE
RELATING TO REGULATION OF FIREARMS AND AMMUNITION**

WHEREAS, the Town of Tiburon has initiated text amendments to the Town's Zoning Ordinance, codified as Title IV, Chapter 16 of the Tiburon Municipal Code; and

WHEREAS, a notice of the public hearing on the amendments was published in a newspaper of general circulation within the Town of Tiburon on February 12, 2016 and other noticing was provided as required by law; and

WHEREAS, the Planning Commission did hold a duly noticed and advertised public hearing on February 24, 2016 and considered any testimony received during the public hearing; and

WHEREAS, the Planning Commission has considered the preliminary environmental determination that the proposed amendments are categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the CEQA Guidelines (Minor Alterations to Land Use Limitations) and also pursuant to CEQA Guidelines Section 15061(b)(3); and

WHEREAS, the Planning Commission finds that the proposed zoning text amendments are consistent with the goals, policies, and programs of the Tiburon General Plan and any applicable plans and are consistent with the requirements and objectives of the Zoning Ordinance; and

WHEREAS, the Planning Commission finds that the proposed amendments will not be detrimental to the public health, safety or welfare of the Town.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Town Council adopt the Zoning Ordinance text amendments as set forth in the attached Exhibit "A".

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on _____, 2016, by the following vote:

AYES: COMMISSIONERS:

NAYS: COMMISSIONERS:

ABSENT: COMMISSIONERS:

DAVID KULIK, CHAIR
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY

Attachment: Exhibit "A"

EXHIBIT "A"

- (A) Title IV, Chapter 16, Section 16-52.110B is revised to add read as follows:
- B. General criteria. Home occupations shall be limited to the following uses:
1. Art and craft work (ceramics, painting, photography, sculpture, etc.);
 2. Tailors, sewing, etc.; and
 3. Office-only uses, including an office for an architect, attorney, consultant, counselor, insurance agent, planner, tutor, writer, etc., and electronic commerce.
 4. Firearms sales, as defined in article X [Definitions] of this chapter, are not permitted as a home occupation.

Home Occupations may also include any other uses that may be determined by the Review Authority to be of the same general character as the above-allowed occupations, and not objectionable or detrimental to the zone in which they are located.

- (B) Title IV, Chapter 16, Section 16-22.030A.2 [Conditional uses permitted in the NC zone] is revised to add the term "Firearms sales" to the alphabetical list of uses set forth therein.
- (C) Title IV, Chapter 16, Section 16-100.020F of the Tiburon Municipal Code is amended to add the definition of "Firearms sales" to read as follows:
- "Firearms sales". A business licensed to sell, lease or transfer firearms or ammunition pursuant to California Penal Code Sections 26700 to 26915 and 30300 to 30365, or successor sections thereto.

RESOLUTION NO. 2016-DRAFT

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE TOWN OF TIBURON RECOMMENDING TO THE TOWN COUNCIL ADOPTION
OF VARIOUS TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE**

WHEREAS, the Town of Tiburon has initiated text amendments to the Town's Zoning Ordinance, codified as Title IV, Chapter 16 of the Tiburon Municipal Code; and

WHEREAS, a notice of the public hearing on the amendments was published in a newspaper of general circulation within the Town of Tiburon on February 12, 2016 and other noticing was provided as required by law; and

WHEREAS, the Planning Commission did hold a duly noticed and advertised public hearing on February 24, 2016 and considered any testimony received during the public hearing; and

WHEREAS, the Planning Commission has considered the preliminary environmental determination that the proposed amendments are categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the CEQA Guidelines (Minor Alterations to Land Use Limitations) and also pursuant to CEQA Guidelines Section 15061(b)(3); and

WHEREAS, the Planning Commission finds that the proposed zoning text amendments are consistent with the goals, policies, and programs of the Tiburon General Plan and any applicable plans and are consistent with the requirements and objectives of the Zoning Ordinance; and

WHEREAS, the Planning Commission finds that the proposed amendments will not be detrimental to the public health, safety or welfare of the Town.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Town Council adopt the Zoning Ordinance text amendments as set forth in the attached Exhibit "A".

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on _____, 2016, by the following vote:

AYES: COMMISSIONERS:

NAYS: COMMISSIONERS:

ABSENT: COMMISSIONERS:

DAVID KULIK, CHAIR
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY

Attachment: Exhibit "A"

EXHIBIT "A"

- (A) Title IV, Chapter 16, Section 16-10.050D.2. of the Tiburon Municipal Code is amended to read as follows:

2. Development standards. The proposed use of land or structure shall satisfy all applicable requirements of this chapter, including, but not limited to, minimum lot area, height limits, required setbacks, residential density, lot coverage, and floor area limits; and

- (B) Title IV, Chapter 16, Section 16-21.020B.1 of the Tiburon Municipal Code is amended to read as follows:

1. R-1-B-A (Bel Aire single-family residential) zone. The R-1-B-A zone serves the same purpose as the R-1 zone but is intended to reflect the different front and side setbacks historically found in the Bel Aire Estates neighborhood. The principal uses, conditional uses, and development standards for the R-1-B-A zone shall be the same as the R-1 zone with the exception of the front and side setbacks established in section 16-21.040 (residential zones development standards).

- (C) Title IV, Chapter 16, Section 16-21.020B.2 of the Tiburon Municipal Code is amended to read as follows:

2. R-1-B-2 (modified single-family residential) zone. The R-1-B-2 zone serves the same purpose as the R-1 zone but is intended to reflect the different front and side setbacks with which the properties were developed. The principal uses, conditional uses, and the development standards for the R-1-B-2 zone shall be the same as the R-1 zone with the exception of the front and side setbacks established in section 16-21.040 (residential zones development standards).

- (D) Title IV, Chapter 16, Section 16-30.030C of the Tiburon Municipal Code is amended to read as follows:

C. Measurement of setbacks. Required setbacks shall be measured horizontally from the front, side or rear property line as appropriate to the measurement, to a line parallel thereto at the minimum distance specified in Article II for the zone in which the property is located. On a site that is not rectangular or approximately rectangular in shape, required setbacks shall be determined by the director, and a record of such determination kept in the town building file.

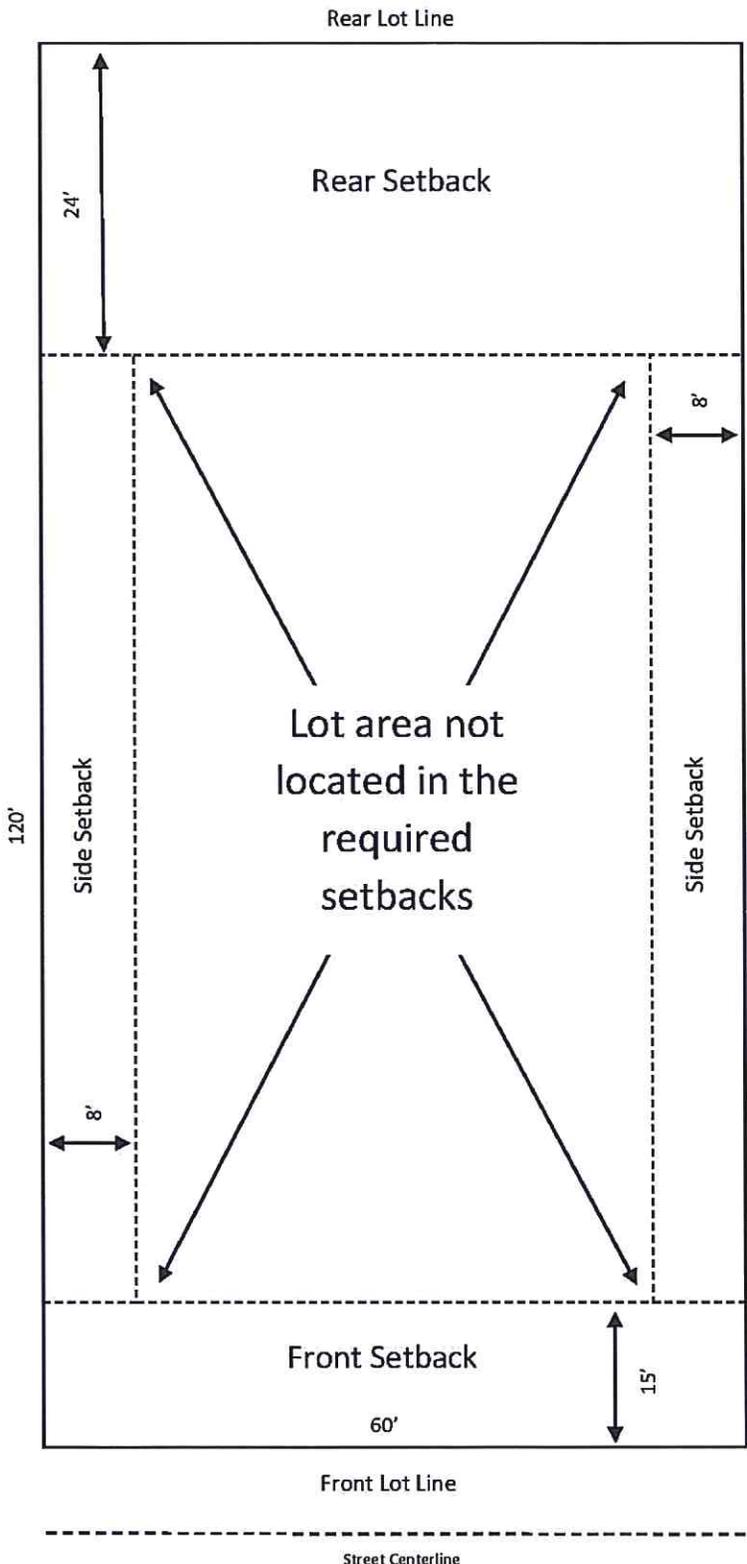


Figure 3-1. Setbacks (Example using R-1 zone setbacks)

(E) Title IV, Chapter 16, Section 16-30.030E.1 of the Tiburon Municipal Code is amended to read as follows:

1. Accessory structures. Required front and side setbacks shall not be used for the placement or erection of any accessory building in any zone. Detached accessory buildings not exceeding twelve feet in height may be located on a rear setback, provided that such buildings do not occupy more than twenty-five percent of the area of the rear setback. Swimming pools and spas may also be located on a rear setback, but not within a front setback or side setback.

(F) Title IV, Chapter 16, Section 16-30.030E.5.c of the Tiburon Municipal Code is deleted.

(G) Title IV, Chapter 16, Section 16-30.030G of the Tiburon Municipal Code is amended to read as follows:

G. Restrictions on the use of front setbacks in residential zones. In any residential zone, a front setback shall not be used for the storage of junk materials as described in article X [Definitions] under the definition of "junkyard."

(H) Title IV, Chapter 16, Section 16-30.040B.iii of the Tiburon Municipal Code is amended to read as follows:

iii. The fence and/or wall would have a maximum height of six feet on the upper side of the structure; and a maximum height on the lower side of the structure of six feet plus the difference in surface elevation between the adjoining property at the property line, but in no instance more than nine feet;

(I) Title IV, Chapter 16, Section 16-30.100B of the Tiburon Municipal Code is amended to read as follows:

B. The area of such lots that is below the mean high tide line shall not be used in the determination of lot coverage, floor area ratio, or any other land and structure regulation of the zone in which it is located, but submerged land under the same ownership may be applied toward the minimum lot area requirements and the required rear setback of a lot.

(J) Title IV, Chapter 16, Section 16-30.120B.1 of the Tiburon Municipal Code is amended to read as follows:

1. Lot coverage measures the proportion of a lot that is covered by structures. Lot coverage limits help to promote the aesthetic qualities of spaciousness and privacy. Lot coverage limits can also help reduce excessive run-off and help provide usable outdoor spaces by restricting the horizontal overbuilding of properties. In traditional zones (R-1, R-1-B, R-2, R-3, RO), the percentage of any lot that may be covered by structures is specified in the land and structure

regulations for that zone (see article II [zones and allowable uses]). Lot coverage in planned developments is usually established by the precise development plan or associated document.

(K) Title IV, Chapter 16, Section 16-40.020H.f of the Tiburon Municipal Code is amended to read as follows:

f. No side setback or rear setback variances shall be allowed for the project.

(L) Title IV, Chapter 16, Section 16-40.050D.2.a of the Tiburon Municipal Code is amended to read as follows:

a. Fencing. A six-foot high fence or wall shall be constructed on all property lines or around the outdoor activity areas, except in the front setback or within a traffic safety visibility area. All fences or walls shall provide for safety with controlled points of entry in compliance with section 16-30.040 (fences and walls).

(M) Title IV, Chapter 16, Section 16-42.030.2 of the Tiburon Municipal Code is amended to read as follows:

2. Television broadcast system (TVBS) antennas provided: (1) the antenna is located entirely on and/or above the subject property; and (2) no portion of any ground-mounted antenna is within a required front setback for the main building, in front of the main building, within a required side setback of a corner lot, or adjacent to a street. All TVBS antennas greater than three feet in height shall require site plan and architectural review and building permits in compliance with the Municipal Code for review of placement to ensure that maximum safety is maintained;

(N) Title IV, Chapter 16, Section 16-42.030.3 of the Tiburon Municipal Code is amended to read as follows:

3. Satellite earth station (SES) antennas measuring two meters or less in diameter (or diagonal measurement) located on a property within any commercial office or public zone, provided that: (1) the antenna is located entirely on and/or above the subject property; and (2) no portion of any ground-mounted antenna is within a required front setback for the main building, in front of the main building, within a required side setback of a corner lot, or adjacent to a street. All SES antennas measuring more than one meter in diameter shall require site plan and architectural review and building permits in compliance with the Municipal Code for review of placement to ensure that maximum safety is maintained;

(O) Title IV, Chapter 16, Section 16-52.040J.1 of the Tiburon Municipal Code is amended to read as follows:

1. Special setbacks, open spaces and buffers;

- (P) Title IV, Chapter 16, Section 16-62.020B.1.c of the Tiburon Municipal Code is amended to read as follows:
- b. A building with a setback less than that required in its zone and that did not receive a variance for the reduced setback area.
- (Q) Title IV, Chapter 16, Section 16-100.020A of the Tiburon Municipal Code is amended such that the definition of “Access Corridor” reads as follows:
- “Access corridor”. The portion of a flag lot providing access from the street, except that no portion of a site having side lot lines radial to the center or curvature of a street from the street property line to the rear lot line shall be deemed an access corridor. The area of an access corridor shall not be included in determining the area of a site, and the depth of an access corridor shall not be included in determining the depth of a front setback.
- (R) Title IV, Chapter 16, Section 16-100.020A of the Tiburon Municipal Code is amended such that the definition of “Accessory building or structure” reads as follows:
- “Accessory building or structure”. A building or structure that is subordinate to the main building on the same site, or the use of which is incidental to the use of the site or the use of the main building on the site. A building that shares a common wall with a main building shall be deemed a part of the main building. A building or structure that is used as a secondary dwelling unit is not an accessory building or structure.
- (S) Title IV, Chapter 16, Section 16-100.020F of the Tiburon Municipal Code is amended such that the definition of “Front setback” reads as follows:
- “Front setback”. An area extending across the full width of a lot or parcel, the depth of which is the minimum distance from the front lot line (see “Lot line, front) as set forth in article II of this chapter for the zone in which the lot or parcel is located.
- (T) Title IV, Chapter 16, Section 16-100.020L of the Tiburon Municipal Code is amended such that subsection 6. Reversed corner lot of the definition of “Lot” reads as follows:
- 6. Reversed corner lot. A corner lot, the rear setback of which abuts the side setback of another lot.
- (U) Title IV, Chapter 16, Section 16-100.020L of the Tiburon Municipal Code is amended such that the definition of “lot line, front” reads as follows:
- “Lot line, front”. "Front lot line" means the line of an interior lot separating it from a street at or closest to the access to the lot, except (1) as otherwise defined under "frontage", or (2) when a front property line falls within a street right-of-way or

roadway easement, the front lot line shall be the street right-of-way or roadway easement line within the property.

- (V) Title IV, Chapter 16, Section 16-100.020R of the Tiburon Municipal Code is amended to add the definition of “Rear setback” to read as follows:

“Rear Setback”. An area extending across the full width of a lot or parcel, the depth of which is the minimum distance from the rear lot line (see “Lot line, rear”) as set forth in article II of this chapter for the zone in which the lot or parcel is located.

- (W) Title IV, Chapter 16, Section 16-100.020S of the Tiburon Municipal Code is amended such that the definition of “Setback” reads as follows:

“Setback”. A portion of a lot or parcel in which certain uses, buildings or structures are regulated or restricted. Setback distances are based on the zone in which the lot or parcel is located. See article II for specifics and see section 16-30.030C for a graphic representation. See also “Front setback”, “Rear setback”, and “Side setback”.

- (X) Title IV, Chapter 16, Section 16-100.020S of the Tiburon Municipal Code is amended to add the definition of “Side Setback” to read as follows:

“Side setback”. An area extending from the front setback to the rear setback of the lot or parcel, the width of which is the minimum distance from the side lot line (see “Lot line, side”), as set forth in article II of this chapter for the zone in which the lot or parcel is located.

- (Y) Title IV, Chapter 16, Section 16-100.020S of the Tiburon Municipal Code is amended such that the definition of “Special setback” reads as follows:

“Special setback”. A setback different than normally required pursuant to article II of this chapter that is required through the course of a conditional permit or other discretionary zoning permit review.

- (Z) Title IV, Chapter 16, Section 16-100.020Y of the Tiburon Municipal Code is amended such that Figure 10-5 Yards is deleted and the definition of “Yard” reads as follows:

“Yard”. When used in the context of a physical portion of a lot or parcel, “yard” is synonymous with “setback”.

- (AA) Title IV, Chapter 16, Section 16-100.020Z of the Tiburon Municipal Code is amended such that the definition of “Zone” reads as follows:

"Zone". An area within which certain uses of land, buildings and structures are permitted and certain others are regulated or prohibited; setbacks are required, and lot areas, building height limits, and other requirements are established.

(BB) Title IV, Chapter 16, Section 16-20.030A.4 [Prohibited uses] is revised to read as follows:

4. Prohibited Uses.

- a. Marijuana Dispensaries are prohibited in all zones.
- b. The sale of marijuana is prohibited in all zones.
- c. The cultivation of marijuana is prohibited in all zones. For purposes of this section, “cultivation of marijuana” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(CC) Title IV, Chapter 16, Section 16-22.030A.1.a is revised to read as follows:

- a. Use-for-use changes (e.g., restaurant to restaurant) or minor structural alterations when no substantive intensification of use, as determined by the Director, is proposed; except as set forth in Subsection A.1.e below. Substantive intensification of use shall be measured in terms of parking requirements, number of employees at maximum shift, total floor area occupied, vehicular trip generation, or other factors within the reasonable discretion of the Director. The term “use for use changes” is qualified to limit its applicability to situations where the replacement use is substantially similar to the prior use in the reasonable discretion of the Director.

Town Manager Chanis confirmed the Town's [previously approved] contribution for the current school year was \$325,000; he said there would be a more precise number for the upcoming fiscal year when the FY 2016-17 Operating Budget was presented to the Council.

Councilmember Doyle also concurred with O'Donnell's comments about the YBCP and his recommendation to get Corte Madera and the County involved in the program. He said that as a "kid" riding the bus, he found it to be a positive experience during the day; a break between school and home.

Mayor Tollini said the numbers don't lie; that there had been a measurable reduction in traffic as a result of the YBCP, as evidenced by the traffic studies. She applauded everyone's efforts toward making the program a success.

Mayor Tollini said she, too, would support staff's recommendations, and asked for a motion to:

1. Reaffirm the Town's support of the Yellow Bus Challenge Program and continued participation on the Yellow Bus Challenge 2.0 Committee and,
2. Review the Draft "*Joint Powers Agreement to establish, operate and maintain a school bus system to reduce traffic*" and provide direction to the Town Manager, who will work with representatives from Belvedere and the Reed Union School District to finalize the document for Town Council consideration at the February 17, 2016 Town Council meeting and,
3. Direct staff to include, for Town Council consideration, an appropriation in the Fiscal Year 2016-2017 Town Operating Budget, to subsidize the Yellow Bus Challenge program in School Year 2016-2017.

Moved: Fredericks, seconded by Fraser

Vote: AYES: Unanimous

→ 3. **Regulation of Firearms** – Discussion of options for the Tiburon Town Council to consider regarding amendments to Chapter 32 of the Town Code (Mayor Tollini/Vice Mayor Fraser)

Mayor Tollini said she was fully in support of Second Amendment rights. She said she had asked staff to place a discussion of this item [Chapter 32] on the agenda so that the town could weigh in against the kinds of guns used in recent crimes and mass shooting. She said these events had created a "tipping point" between the rights of certain types of gun ownership and public safety and welfare. She said that as a mother and a community leader, she wants the Town to be at the forefront of this discussion and to take action in order to make our community a safer place, and to send a message to County and State leaders.

In his staff report, Town Manager Chanis said that some local jurisdictions have begun reviewing their regulations to determine whether there are additional measures that can be enacted at a local level to address the increase in gun violence. He said that most California

cities that have considered further regulation have focused on regulations in the following areas:

1. Possession of large capacity magazines.
2. Reporting requirements for lost or stolen firearms.
3. Requirements for the safe storage of firearms.
4. Further regulating firearm dealers.

Chanis' report further analyzed these types of regulations. He also included copies of ordinances adopted by the City of San Francisco, City of Sunnyvale, and proposed state legislation, the "Safety for All" initiative. He said staff would seek direction from the Council as to any amendments to the Town Code it might want to consider, and if so, direct staff to return with a draft amended ordinance.

Councilmember Fredericks asked whether it is possible to restrict certain types of business activities in the town. Town Attorney Stock said that action would be impermissible; he said the Town has to allow a location somewhere to sell firearms and ammunition. He said that it could be made clear, however, that the location must be located in a commercial zone.

In referencing other legislation, Councilmember Fredericks asked if the State or Federal regulations might preempt any changes to the Town Code.

Attorney Stock said that cases interpreting the Second Amendment indicated there was no blanket prohibition. But he said that the State of California regulates multiple areas involving firearms and has preempted discrete areas of gun regulation, including licensing of firearms dealers.

Fredericks asked if the lists of dealers with permits, or permittees, would be a public document. Town Attorney Stock said he would look into this question further.

Councilmember Fredericks asked if Lt. Governor Newsom's "Safety for All" initiative passed, would it preempt all local control of the sale of firearms and ammunition.

Attorney Stock said that it would likely preempt several categories under consideration. He said the initiative included sections on the regulation of large capacity magazines and lost and stolen firearms, both of which were under discussion in the council's review of Chapter 32. Attorney Stock added that a local jurisdiction could enact more stringent regulations if not preempted.

Vice Mayor Fraser said he had been present in meetings with the Mayor and Town Attorney that had included a local expert from the Law Center to Prevent Gun Violence on these types of regulation. He said he was aligned with the Mayor in her desire to regulate large capacity magazines, lost or stolen firearms, and possibly firearms dealers. He said he personally did not want to see the people of Tiburon owning or selling large capacity weapons.

Mayor Tollini opened the matter to public comment.

Supervisor Kate Sears expressed her support and appreciation to the Mayor for bringing this matter forward. She said it would be fabulous if Tiburon was the first town to take action, and it could provide a model for other cities, and the County of Marin. She said it was the right way to go.

There being no further comment, the discussion returned to the Council.

Councilmember Fredericks said she, too, would support amendments to the Town Code. She suggested writing a letter of support for Newsom's bill; also requesting that it be amended to not usurp local control, if the Council thought it was important to make that statement.

Attorney Stock noted that if Newsom's initiative passed, the town would be unable to enact stricter legislation on the areas covered under the initiative. Mayor Tollini said that the areas under consideration in the Town's regulations tracked Newsom's bill.

Councilmember O'Donnell recalled the Sandy Hook school shooting that had taken place during his term as mayor. He said that [former] New York Michael Mayor Bloomberg had, with his own funds, formed an organization called "Mayors Against Illegal Firearms" which O'Donnell had subsequently joined. After joining, O'Donnell said that Town was flooded with public records requests and letters opposing gun regulation, and he said he had been counseled at the time to be careful about joining larger initiatives outside of local control. He said someone told him when he ran for office that local officials should concentrate on the 4 P's: Police, Potholes, Policy and Parks (or programs).

O'Donnell said that he understood the symbolic nature of strengthening regulations but he advised a cautious approach to avoid any legal issues. He said that President Obama had spoken eloquently about gun regulation. He said he would be in favor of supporting legislation, such as the Lt. Governor's initiative, rather than adopt a "symbolic" local ordinance. However, he said he would support the majority vote on this matter.

Councilmember Doyle reiterated his belief that legislation should not be adopted to regulate the "lowest common denominator". He said it was common sense to track lost or stolen firearms, and to regulate large capacity magazines, and that he would support local regulation for its symbolic purposes. He commented that Tiburon was not Montana where, for instance, one can purchase firearms at the local WalMart. But he said the Town should "not make a big deal" about regulating firearms.

Vice Mayor Fraser said he agreed that the Town should proceed cautiously on this issue but said that the symbolic nature of it was important.

Vice Mayor Fraser and Councilmember Doyle said they also concurred with the recommendation to send a letter of support to Newsom for his "Safety for All" initiative.

Mayor Tollini said she was encouraged by a conversation with the Chief of Police who had told her that anything the Town could do to get even one large capacity magazine off the street would be moving in the right direction. She said she would like to build a coalition of cities in the County who were interested in doing so.

Tollini went on to say that after the 101 California shooting, locals activists banded together and used their influence to recommend stricter firearms regulations, which were now State law. She said she wanted to send a letter of support for “Safety for All”, as well as consider amendments to local regulations.

Councilmember Fredericks said that she and the seated Mayor [Mayor Tollini] comprised the Town’s ad hoc legislative subcommittee, and they might write the letter on behalf of the Council.

MOTION: To direct staff to prepare amendments to Chapter 16 (Zoning) and Chapter 32 (Regulation of Firearms) of the Town Code for Council’s future consideration; and send a letter of support to Lt. Governor Newsom for his “Safety for All” initiative.

Moved: Fredericks, seconded by Doyle
Vote: AYES: Unanimous

PUBLIC HEARINGS

1. **145 Rancho Drive** – Request to amend Cypress Hollow Precise Development Plan (PD#45) to create a secondary building envelope (Community Development Department)

Owners/Applicants: Rapport Investment Group, LLC
Assessor Parcel No.: 034-392-10

Senior Planner Watrous summarized the application in the staff report, and noted the Planning Commission’s approval and recommendation to approve the amendment. There were no additional questions or comments from the Council.

Mayor Tollini opened the public hearing. There was no public comment. Mayor Tollini closed the public hearing.

MOTION: To adopt the resolution approving the precise plan amendment, as written.
Moved: Fredericks, seconded by Fraser
Vote: AYES: Unanimous