



## **Short Term (Vacation) Rental Information November 23, 2015**

On November 18, 2015 the Tiburon Town Council adopted an ordinance prohibiting short term rentals (rentals for transient use of 30 consecutive calendar days or less) of dwelling units. The ordinance goes into effect on December 18, 2015.

The Ordinance specifies that all existing seasonal rental permits issued by the Town shall become null and void on December 31, 2015. All short term rental activity conducted after December 31, 2015 is unlawful.

The ordinance sets forth various enforcement mechanisms available to the Town. The ordinance also allows any interested person to seek a court injunction against a violator.

The Town of Tiburon will not be issuing or renewing any seasonal rental permits under the regulations currently in effect until December 18, 2015.

For additional information, please contact the Tiburon Planning Division at 415-435-7390.

**ORDINANCE NO. 562 N. S.**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON  
REPEALING TITLE IV, CHAPTER 16, SECTION 16-40.040 (SEASONAL RENTAL  
UNITS) OF THE TIBURON MUNICIPAL CODE AND ADOPTING A NEW TITLE IV,  
CHAPTER 16, SECTION 16-40.040 THAT PROHIBITS VACATION RENTALS**

WHEREAS, the Town consists of just over four square miles of land on a narrow peninsula jutting into San Francisco Bay, which is home to 9,000 residents and numerous visitors from the world over on any given day of the year; and

WHEREAS, Tiburon's housing goals include preserving its housing stock and preserving the quality and character of its existing single and multi-family residential neighborhoods; and

WHEREAS, the Town must also preserve its unique sense of community which derives, in large part, from residents' active participation in civic affairs, including local government, cultural events, and educational endeavors; and

WHEREAS, Tiburon's unparalleled geography, climate, natural beauty, its charming downtown, distinct residential neighborhoods and proximity to San Francisco and other parts of the San Francisco Bay Area have drawn visitors from around the United States and around the world; and

WHEREAS, the Town affords an array of visitor-serving short term rentals, including, hotels, motels, seasonal and/or vacation rentals, not all of which are currently being undertaken as authorized by local law; and

WHEREAS, operations of vacation rentals, where residents typically rent out entire units to visitors and are not present during the visitors' stays, are found to be detrimental to the Town's public welfare because occupants of such vacation rentals do not have any connections to the Tiburon community and to the residential neighborhoods in which they are visiting; and

WHEREAS, the presence of such visitors within the Town's residential neighborhoods has on well-documented occasions disrupted the quietude and residential character of the neighborhoods and adversely impact the community, resulting in noise, parking and litter complaints from adversely affected neighbors; and

WHEREAS, judicial decisions have upheld local governments' authority to prohibit vacation rentals.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF TIBURON DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. REPEAL.**

Title IV, Chapter 16, Section 16-40.040 of the Tiburon Municipal Code is hereby repealed.

**SECTION 2. ADOPTION OF AMENDMENTS.**

(A) Title IV, Chapter 16, Section 16-21.030 (Table 2-1) is amended to read as shown on attached Exhibit "A".

(B) Title IV, Chapter 16, Section 16-50.020 (Table 5-1) is amended to read as shown on attached Exhibit "B".

(C) Title IV, Section 16-40.040 of the Tiburon Municipal Code is hereby adopted to read as follows:

**16-40.040 VACATION RENTALS**

**16.40.042 Vacation Rentals Prohibited**

No person shall undertake, maintain, authorize, aid, facilitate or advertise a Vacation Rental, as defined herein. Any permits previously issued for such uses (also known as Seasonal Rental Units) shall not be renewed and shall expire according to the terms of those permits and become null and void on December 31, 2015.

**16-40.046 Enforcement**

(a) Any person violating any provision of this Section shall be guilty of an infraction, which shall be punishable by a fine as established by Resolution of the Town Council and amended from time to time.

(b) Any person convicted of violating any provision of this Section in a criminal case or found to be in violation of this Section in a civil case brought by a law enforcement agency shall be ordered to reimburse the Town and other participating law enforcement agencies their full investigative costs, pay all back-owed transient occupancy taxes, and remit all illegally obtained rental revenue to the Town so that it may be used to return payment to the affected vacation renters.

(c) Any person who violates any provision of this Section shall be subject to administrative fines and administrative penalties pursuant to Title VI, Chapter 31 of this Code and to recovery of collection costs pursuant to Title II, Chapter 1, Section 1-10 of this Code.

(d) Any interested person may seek an injunction or other relief against any person who is alleged to be violating this Section in order to prevent or remedy violations of this Section. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees from the person determined to be in violation. Under no circumstance shall any person be entitled to maintain an action seeking an injunction or other relief or recover any reasonable costs and attorney's fees against the Town to enforce the provisions of this Section.

(e) The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

(B) Title IV, Chapter 16, Article X, Section 16-100.020 is amended as follows:

(1) The definition of “Seasonal rental unit” in Section 16-100.020 (S) is amended to read as follows:

**Seasonal rental unit.** See “Vacation rental”.

(2) The following definition is added to Section 16-100.020 (S):

**Short term rental.** See “Vacation Rental”.

(3) The following definition is added to Section 16-100.020 (V):

**Vacation Rental.** Rental of any dwelling unit, in whole or in part, within the Town of Tiburon to any person(s) for exclusive transient use of 30 consecutive calendar days or less, in instances where the unit is only approved for permanent residential occupancy and not approved for occupancy by transients, as that term is defined in Title II, Chapter 7 of this Code. Rental of units within Town-approved hotels, motels and bed and breakfasts shall not be considered Vacation Rental, nor shall providing room and board for one guest in a single family dwelling.

### **SECTION 3. SEVERABILITY.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The Town Council of the Town of Tiburon hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**SECTION 4. PUBLICATION AND EFFECTIVE DATE.**

This Ordinance shall be in full force and effect thirty (30) days after the date of adoption. Pursuant to the provisions of the California Government Code, a summary of this ordinance shall be prepared by the Town Attorney. At least five (5) days prior to the Town Council meeting at which adoption of the ordinance is scheduled, the Town Clerk shall (1) publish the summary in a newspaper of general circulation in the Town of Tiburon, and (2) post in the office of the Town Clerk a certified copy of this ordinance. Within fifteen (15) days after the adoption of this ordinance, the Town Clerk shall (1) publish the summary in a newspaper of general circulation in the Town of Tiburon, and (2) post in the office of the Town Clerk a certified copy of the ordinance along with the names of those Council members voting for and against the ordinance.

This ordinance was read and introduced at a regular meeting of the Town Council of the Town of Tiburon, held on August 19, 2015, and was adopted at a regular meeting of the Town Council of the Town of Tiburon, held on November 18, 2015, by the following vote:

AYES: COUNCILMEMBERS: Fraser, Fredericks, O'Donnell

NAYS: COUNCILMEMBERS: Doyle, Tollini

ABSENT: COUNCILMEMBERS: None

/s/ Frank X. Doyle

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FRANK X. DOYLE, MAYOR  
TOWN OF TIBURON

ATTEST:

/s/ Diane Crane Iacopi

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DIANE CRANE IACOPI, TOWN CLERK

Attachments: Exhibit "A"---Revised Table 2-1  
Exhibit "B"---Revised Table 5-1

<b>TABLE 2-1</b> <b>Allowed Land Uses and Permit Requirements</b> <b>for Residential Zones</b>	P	Permitted Use
	U	Conditional Use Permit
	MP	Ministerial Permit
	—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	R-1	R-1-B	RO	R-2	R-3	RPD	RMP	
<b>AGRICULTURAL &amp; OPEN SPACE USES</b>								
Agriculture, including Aviaries (6)	U	U	U	U	U	U	U	
Botanical conservatories, outdoor nature labs, and similar facilities	—	—	—	—	—	U	U	
Open space use	—	—	—	—	—	P	P	
Wildlife sanctuaries	—	—	—	—	—	U	U	

<b>RECREATION, EDUCATION &amp; PUBLIC ASSEMBLY USES</b>								
Equestrian facility (2)	U	U	U	—	—	U	U	Title VI, 20-5.1
Golf course/country club	U	U	U	—	—	U	U	
Library, museum	U	U	U	U	U	—	—	
Parochial or other nonprofit school - elementary, secondary, or college	U	U	U	U	U	U	U	
Philanthropic or charitable facility	U	U	U	U	U	U	U	
Private residential recreation facilities	U	U	U	U	U	U	U	
Public park	P	P	P	P	P	P	P	
Playground	U	U	U	U	U	U	U	
Publicly owned building or facility	U	U	U	U	U	U	U	
Religious places of worship	U	U	U	U	U	U	U	

<b>RESIDENTIAL USES</b>								
Home occupation	P	P	P	P	P	P	P	16-52.110
Intermediate or community care facility (3)	P	P	P	P	P	P	P	
Multifamily dwelling	—	—	—	—	P	—	P	
Secondary dwelling unit /Junior accessory dwelling unit (5)	MP	MP	MP	—	—	MP	—	16-52.100/16-52.105
Single-family dwelling	P	P	P	P	—	P	P	
Single-family dwelling providing room/board for 1 paying guest	P	P	P	P	—	P	P	
Two-family dwelling, attached	—	—	—	P	—	—	P	
Two-family dwelling, detached	—	—	—	P(4)	—	—	—	16-40.020
Transitional, supportive housing	P	P	P	P	P	P	P	

**Key to Zoning District Symbols**

<b>R-1</b>	Single-Family Residential	<b>R-3</b>	Multifamily Residential
<b>R-1-B</b>	Modified Single Family Residential	<b>RPD</b>	Residential Planned Development
<b>RO</b>	Residential Open	<b>RMP</b>	Residential Multiple Planned
<b>R-2</b>	Two-Family Residential		

**Notes:** (1) See Article X (Definitions) for land use definitions.

(2) The keeping of horses subject to licensing of each horse pursuant to the Tiburon horse license ordinance. Use permits for keeping horses shall automatically terminate upon revocation of license issued under horse license ordinance.

(3) As defined by state law or any other residential care facility for the handicapped (as defined by the Fair Housing Act) located in a single-family dwelling. All such facilities shall be subject to all regulations of the California Health and Safety Code.

(4) Provided that design review board has approved or conditionally approved a detached two-family dwelling exception, as set forth in Section 16-40.020. Detached two-family dwellings that lawfully existed on June 4, 2003 are deemed legal nonconforming structures subject to provisions of Section 16-62.

(5) Also subject to Standards adopted by separate Resolution of the Town Council.

(6) Except for chicken-keeping and bee-keeping as set forth in Section 16-40.070.

**EXHIBIT "A"**

<b>TABLE 2-1 (Continued)</b> <b>Allowed Land Uses and Permit Requirements</b> <b>for Residential Zones</b>	P Permitted Use U Conditional Use Permit MP Ministerial Permit — Use not allowed							
	<b>LAND USE (1)</b>	<b>PERMIT REQUIRED BY DISTRICT</b>						
		<b>R-1</b>	<b>R-1-B</b>	<b>RO</b>	<b>R-2</b>	<b>R-3</b>	<b>RPD</b>	<b>RMP</b>

**SERVICES - GENERAL**

Bed and breakfast facility (B&B)	U	U	U	—	—	—	—	
Child day-care facilities, small family day-care homes – up to 8 children (5)	P	P	P	P	P	P	P	Health & Safety Code 1597.3 et seq.
Child day-care facilities, large family day-care homes - 9 to 14 children (5)	MP	MP	MP	MP	MP	MP	MP	Health & Safety Code 1597.46 - 1597.465
Child day-care center - 15 or more children	U	U	U	U	U	U	U	
Medical Services - Hospital	U	U	U	U	U	U	U	
Real estate tract office	U	U	U	U	U	U	U	

**TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE**

Public utility and communication equipment building	U	U	U	U	U	U	U	
Wireless communication facility, amateur or professional (6)	U/MP	U/MP	U/MP	U/MP	U/MP	U/MP	U/MP	Government Code 65850.6

**Key to Zoning District Symbols**

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<b>RO</b>	Residential Open	<b>RMP</b>	Residential Multiple Planned
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**Notes:**

- (1) See Article X (Definitions) for land use definitions.
- (2) The keeping of horses subject to licensing of each horse pursuant to the Tiburon horse license ordinance. Use permits for keeping horses shall automatically terminate upon revocation of the license issued under horse license ordinance.
- (3) As defined by state law or any other residential care facility for the handicapped (as defined by the Fair Housing Act) located in a single-family dwelling. All such facilities shall be subject to all regulations of the California Health and Safety Code.
- (4) Provided that design review board has approved or conditionally approved a detached two-family dwelling exception, as set forth in Section 16-40.020. Detached two-family dwellings that lawfully existed on June 4, 2003 are deemed legal nonconforming structures subject to provisions of Sec. 16-62.
- (5) When located in a single-family dwelling.
- (6) See Section 16-42.040 for specifics. Certain modifications, replacements and removals are subject to ministerial review and approval under federal law or are eligible for streamlined discretionary review.



**Table 5-1 - Review Authority**

Type of Permit or Decision	Role of Review Authority <sup>1</sup>			
	Director	Design Review Board	Planning Commission	Town Council
Site Plan and Architectural Review		Decide		Appeal Action
Site Plan and Architectural Review (Minor Alterations)	Decide	Appeal Action		
Variance, Site Plan and Architectural Review-related		Decide		Appeal Action
Variance, Other			Decide	Appeal Action
Conditional Use Permit			Decide	Appeal Action
Condominium Use Permit			Decide	Appeal Action
Precise Development Plan			Recommend	Decide
Secondary Dwelling Unit Permit/ Junior Accessory Dwelling Unit	Decide			Appeal Action
Zoning Ordinance Text Amendment <sup>2</sup>			Recommend	Decide
Rezoning or Prezoning <sup>2</sup>			Recommend	Decide
Home Occupation Permit or Seasonal Rental Unit Permit	Decide <sup>3</sup>		Appeal Action <sup>3</sup>	
Temporary Use Permit	Decide <sup>3</sup>		Appeal Action <sup>3</sup>	
Tidelands Permit (minor and incidental)	Decide <sup>3</sup>		Appeal Action <sup>3</sup>	
Tidelands Permit (all other)			Decide	Appeal Action
Wireless Communication Facility (administrative)	Decide		Appeal Action	
Minor changes to an approved project	Decide <sup>4</sup>			

**Notes:**

1. "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the authority makes the final decision on the matter; "Appeal Action" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Section 16-66 (Appeals).
2. If the Planning Commission denies an application for a Precise Development Plan amendment, Zoning Text Amendment, Rezoning or Prezoning, that decision is final unless appealed to the Town Council.
3. The Director may refer any such application to the Planning Commission for review and action, in which case the Town Council will be the appeal body.
4. An appeal of the Director's decision shall be heard by the original project's Review Authority, whose decision shall be final.

**EXHIBIT "B"**