

ORDINANCE NO. XX-2016 N. S.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
AMENDING MUNICIPAL CODE TITLE IV, CHAPTER 16 (ZONING) REGARDING
SETBACKS, YARDS AND MISCELLANEOUS RELATED AMENDMENTS**

SECTION 1. FINDINGS.

- A. On _____, 2016, the Planning Commission adopted Resolution No. 2016-__ recommending to the Town Council that various text amendments be made to Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code.
- B. The Town Council held a duly noticed public hearing on _____, 2016, and has heard and considered all public testimony on the proposed Ordinance.
- C. The Town Council finds that all notices and procedures required by law attendant to the adoption of this Ordinance have been followed.
- D. The Town Council finds that the amendment actions made by this Ordinance are necessary for the protection of the public health, safety, and welfare and to comply with federal law.
- E. The Town Council has found that the amendments made by this Ordinance are consistent with the goals and polices of the Tiburon General Plan and other adopted ordinances and regulations of the Town of Tiburon, and further the intent and purposes of General Plan goals and policies.
- F. The Town Council finds that adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305 (Minor Alterations to Land Use Limitations) of the CEQA Guidelines, as well as Section 15061(b)(3) of the CEQA Guidelines. It can be seen with certainty that the text amendments will not result in a significant adverse effect on the environment.

SECTION 2. ADOPTION OF AMENDMENTS TO MUNICIPAL CODE.

- (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.

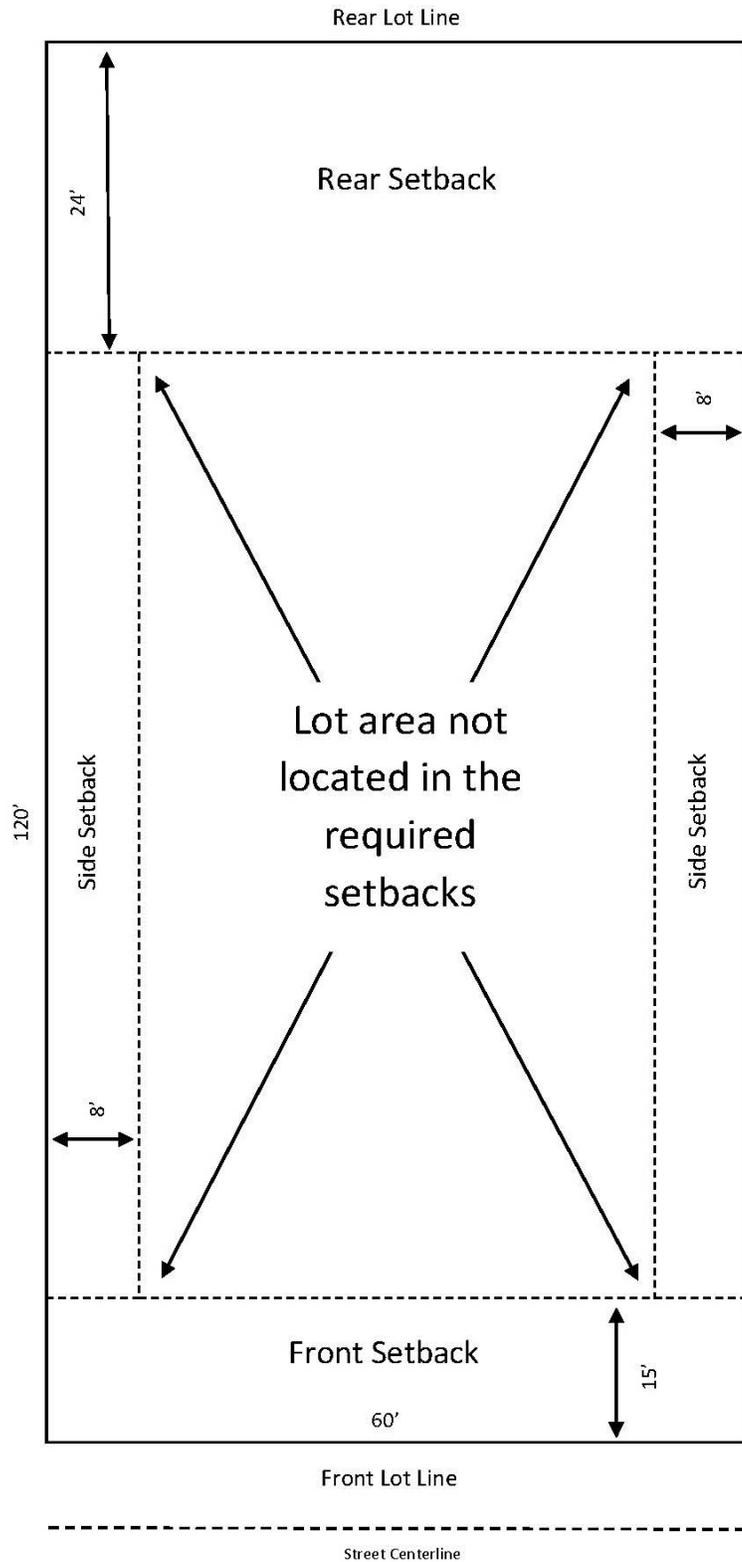


Figure 3.1. Setbacks (Example using R-1 zone setbacks)

(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.2.a.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 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.
- (T) 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.
- (U) 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.

- (V) 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.

- (W) 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.

- (X) 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 (Figure 3.1) for a graphic representation. See also “Front setback”, “Rear setback”, and “Side setback”.

- (Y) 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.

- (Z) 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.

(AA) 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”.

(BB) 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.

(CC) 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.

(DD) Title IV, Chapter 16, Section 16-52.110B is revised to 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.

(EE) 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.

(FF) 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.

SECTION 3. SEVERABILITY.

If any section, subsection, clause, sentence, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Town Council of the Town of Tiburon hereby declares that it would have passed this Ordinance, any section, subsection, sentence, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

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 introduced at a regular meeting of the Town Council of the Town of Tiburon on _____, 2016, and was adopted at a regular meeting of the Town Council of the Town of Tiburon on _____, 2016, by the following vote:

AYES: COUNCILMEMBERS:

NAYS: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ERIN TOLLINI, MAYOR
Town of Tiburon

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK