

**ORDINANCE NO. XXXX**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON  
AMENDING TITLE IV, CHAPTER 13E (WATER EFFICIENT LANDSCAPE)  
OF THE MUNICIPAL CODE AND ADOPTING BY REFERENCE MARIN  
MUNICIPAL WATER DISTRICT (MMWD) ORDINANCE NO. 430  
REGARDING WATER CONSERVATION**

The Town Council of the Town of Tiburon does hereby ordain as follows:

**Section 1.     Findings.**

- A.     The Town Council has held public hearings on May 4, 2016 and June 1, 2016 and has heard and considered any public testimony on this matter.
- B.     The Town Council finds that all notices and procedures required by law attendant to the adoption of this Ordinance have been followed.
- C.     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 are necessary to comply with state law.
- D.     The Town Council has found that the amendment actions made by this Ordinance are consistent with the goals and policies of the Tiburon General Plan and other adopted ordinances and regulations of the Town of Tiburon.
- E.     The Town Council finds that this project is categorically exempt from the requirements of the California Environmental Quality Act per Section 15308 of the CEQA Guidelines because these regulations constitute an action by a regulatory agency to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The Town Council further finds that this project qualifies for an exemption under the General Rule section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

**Section 2.     Amendment.**

Title IV, Chapter 13E of the Tiburon Municipal Code is amended as follows:

- A. Section 13E-1 is amended to read as follows:

**Section 13E-1. Purpose and Authority.**

As mandated under State Government Code Section 65595(c), certain new construction, remodels, and rehabilitation projects that include landscape and irrigation improvements are required to comply with water-efficient landscape requirements and monitoring of water usage for irrigation. The purpose of this chapter is to comply with this state mandate regarding water-efficient landscaping. For the purpose of administering this State mandate, the Town of Tiburon will herein adopt by reference the most current Marin Municipal Water District (MMWD) Ordinance No. 430 (Water Conservation), and any amendments or successors thereto, and designate MMWD, the local water provider, to implement, enforce, and monitor its requirements. The MMWD ordinance contains provisions that include but are not limited to, the following:

- (1) The application and monitoring of a “maximum applied water allowance” that is established for applicable projects.
- (2) The review of required landscape and irrigation plans, specifications and supportive documents prepared for applicable projects for compliance with water-efficient landscape restrictions, including limitations on the type and amount of landscape materials and plant species.
- (3) The review, inspection and approval of landscape and irrigation that is installed for applicable projects to ensure compliance with the approved landscape and irrigation plans and specifications.
- (4) The post-installation monitoring of water usage for irrigation by applicable projects.

B. Section 13E-2 is amended to read as follows:

**Section 13E-2. Adoption by Reference of Marin Municipal Water District Water Efficient Landscape Regulations.**

(a) Pursuant to Government Code Section 50022.2, Marin Municipal Water District Ordinance No. 430, including amendments and successors thereto, is hereby adopted by reference and shall be in full force and effect within the Town of Tiburon. Said Ordinance, and amendments and successors thereto shall be applicable to projects that are subject to the water efficient landscape requirements set forth therein, which projects include, without limitation:

(1) New construction projects with an aggregate landscape area equal to or greater than 500 square feet requiring a building or landscape permit, plan check or design review; and

(2) Rehabilitated landscape projects with an aggregate landscape area equal to or greater than 1,000 square feet requiring a building or landscape permit, plan check or design review; and

(3) Any project with an aggregate landscape area of less than 1,000 square feet requiring a building or landscape permit, plan check, or design review shall comply with the performance requirements of this ordinance.

(b) For the purpose of administering these regulations, the Town of Tiburon hereby designates MMWD, the local water provider, to implement, enforce, and monitor the requirements therein.

(c) Town review of applicable projects shall be processed as follows:

(1) Projects requiring approval of a Site Plan and Architectural Review (a.k.a. Design Review) permit. When an applicable project is subject to Site Plan & Architectural Review approval pursuant to Title IV, Chapter 16 of the Tiburon Municipal Code, the landscape and irrigation plans required by and submitted with this permit application shall be designed and prepared to comply with the provisions and requirements of the applicable MMWD regulations adopted by reference herein. The process for application review of applicable projects and compliance with applicable MMWD regulations shall be as follows:

a. The application and plans submitted to the Town shall be designed in accordance with the most current MMWD Ordinance provisions regarding water efficient landscape;

b. The permit approval shall include a condition or conditions that include the following:

1. The final landscape and irrigation plans must comply with the current water efficient landscape requirements of MMWD.

2. The construction plans submitted to the Town for the issuance of a building permit/grading permit must be pre-approved by MMWD with the submitted plans stamped as approved by MMWD.

3. The building permit application must be accompanied by a letter from MMWD approving the landscape and irrigation plans.
4. If the MMWD-approved plans substantially differ from the Town-approved plans, these differences may require additional review through the Town's design review permit process and/or a revision to the Town's permit.
5. The applicant is responsible for contacting MMWD for all inspections, approval and sign-off on landscape and irrigation installation. Upon approval, MMWD shall issue a Certificate of Completion, which must be submitted to the Planning Division before building permit final sign-off or a Certificate of Occupancy is issued by the Tiburon Community Development Department.

2) Projects requiring a Building Permit and/or Grading Permit only. When an applicable project is not subject to a Site Plan and Architectural Review permit but is required to secure a Building Permit and/or Grading Permit pursuant to Title IV, Chapter 13 of the Tiburon Municipal Code, such permit(s) shall not be issued until the applicant has secured, in writing, MMWD approval of the landscape and irrigation plans confirming compliance with the most current MMWD Ordinance provisions regarding water efficient landscape.

(d) Inspections and Post-Installation Monitoring and Enforcement. MMWD shall be responsible for:

- (1) Inspecting and approving all landscape and irrigation installed for applicable projects prior to project permit final and/or occupancy; and
- (2) Monitoring water usage for installed landscapes to ensure compliance with the most current MMWD Ordinance provisions regarding water efficient landscape. All enforcement actions for ordinance non-compliance or violations shall be administered by MMWD.

C. Section 13E-3 is amended to read as follows:

**13E-3. Designation of Marin Municipal Water District for Enforcement.**

The Marin Municipal Water District, as the Town's local water provider, is hereby designated as the implementing and enforcement agency for provisions of Ordinance No. 430 and any amendments or successors thereto.

D. Section 13E-4 is amended to read as follows:

**13E-4. Availability of Copies.**

Three (3) copies of Marin Municipal Water District Ordinance No. 430, and any amendments or successors thereto, shall be kept on file for public review in the office of the Tiburon Town Clerk.

**Section 3. Severability.**

Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof except that part or provision so declared invalid or unconstitutional.

**Section 4. Effective Date.**

This Ordinance is to take effect and be in force at the expiration of thirty (30) days from and after its passage, and before the expiration of fifteen (15) days after its passage, the same, or its legally required equivalent, shall be published with the names of the members voting for and against the same at least once in a newspaper of general circulation published in the Town of Tiburon.

This Ordinance was first read and 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, which was noticed pursuant to Government Code Sections 6066 and 50022.3, by the following vote:

AYES:           COUNCILMEMBERS:  
NAYS:           COUNCILMEMBERS:  
ABSENT:        COUNCILMEMBERS:

\_\_\_\_\_  
ERIN TOLLINI, MAYOR  
TOWN OF TIBURON

ATTEST:

\_\_\_\_\_  
DIANE CRANE IACOPI, TOWN CLERK