

ORDINANCE NO. 515 N. S.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
REPEALING TITLE IV, CHAPTER 16A (SIGNS) OF THE TIBURON
MUNICIPAL CODE AND ADOPTING A NEW TITLE IV, CHAPTER 16A
(SIGNS), OF THE TIBURON MUNICIPAL CODE**

WHEREAS, Title IV, Chapter 16A of the Tiburon Municipal Code sets forth certain regulations regarding signs; and

WHEREAS, the Town Council has determined that its existing sign regulations are out of date and in need of updating and revision; and

WHEREAS, the Town Council has held public hearings on September 17, 2008 and February 4, 2009 to consider adoption of the new sign regulations; and

WHEREAS, the Town Council finds that adoption of the ordinance would be consistent with and would further the goals and objectives of the General Plan; and

WHEREAS, the Town Council has determined that adoption of the ordinance is exempt from the requirements of CEQA pursuant to Section 15061 [b(3)] of the CEQA Guidelines and is also also categorically exempt pursuant to Sections 15305 and 15311 of the CEQA Guidelines; and

WHEREAS, the Town Council adopts this ordinance in order to promote and protect the public health, safety, and general welfare.

NOW, THEREFORE, the Town Council of the Town of Tiburon does ordain as follows:

SECTION 1. TITLE IV, CHAPTER 16A (SIGNS) REPEALED.

Title IV, Chapter 16A (Signs) of the Tiburon Municipal Code is hereby repealed in its entirety.

SECTION 2. TITLE IV, CHAPTER 16A (SIGNS) ADDED.

Title IV, Chapter 16A (Signs) is hereby added to the Tiburon Municipal Code to read as follows:

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Article I Introduction

16A.100 *Title.*

This Chapter shall be known as the Sign Ordinance of the Town of Tiburon.

16A.105 *Authority.*

This Chapter is adopted pursuant to California Government Code sections 65000 et seq., 65850(b), 38774, and 38775; Business and Professions Code sections 5200 et seq. and 5490 et seq.; Civil Code section 713; and other applicable state laws.

16A.110 *Purpose.*

The provisions of this Chapter shall regulate the location, size, type and number of signs allowed [this includes both signs subject to a permit and those exempt from a permit requirement] within the Town of Tiburon, and guide the design, aesthetics, materials, and illumination of signs within the Town of Tiburon. The purposes of this Chapter are:

- (a) To safeguard and enhance property values.
- (b) To protect the public and private investment in buildings, improvements and open spaces.
- (c) To preserve and improve the visual appearance and aesthetics of the Town as a place to live and work and as a desirable destination for visitors and tourists.
- (d) To encourage sound signage practices as a means to aid existing and new establishments and provide information to the public.
- (e) To ensure the preservation of freedom of speech.
- (f) To preserve and promote vehicular and pedestrian safety.
- (g) To protect the public health, safety and general welfare of the community at large.
- (h) To promote and implement the goals, policies and programs of the Tiburon General Plan.

16A.115 *Regulatory Scope.*

(a) This Chapter regulates all signs that may be erected, installed, maintained, or displayed on private property and other property, not including Town Property or public rights of way, which is located within the limits of the Town of Tiburon.

(b) Signs on the public right of way and signs on Town Property are regulated by Town Council Resolution No. 03-2009, or the most current successor thereto.

Article II Basic Policies

16A.200 *Scope.*

The policies, rules and regulations stated in this article apply to all signs within the regulatory scope of this Chapter and to all provisions of this Chapter, notwithstanding any more specific provisions to the contrary.

16A.205 *Permit Generally Required.*

Only signs authorized by this Chapter may be built, displayed, erected or maintained within the Town. All signs are subject to a permit requirement, unless expressly exempted. Signs exempted from the permit requirement still must satisfy all applicable laws, rules and regulations, including but not limited to building code, electrical code, and grading permits.

16A.210 *Message Substitution.*

Subject to the property owner's consent, a non-commercial message of any type may be substituted, in whole or in part, for the message displayed on any sign for which the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. Message substitution is a continuing right, and may be exercised any number of times. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. In addition, any on-site commercial message may be substituted, in whole or in part, for any other on-site commercial message, provided that the sign structure or mounting device is legal without consideration of message content. This provision does not create a right to increase the total amount of signage on a parcel, lot or land use; does not affect the requirement that a sign structure or mounting device be properly permitted; does not allow a change in the physical structure of a sign or its mounting device; and does not allow the substitution of an off-site commercial message in place of an on-site commercial message or in place of a non-commercial message. In each instance and under the same conditions to which this Chapter pertains, any sign, a sign containing an ideological, political, or other non-commercial message shall be permitted, to the same physical dimensions and character as a commercial message sign in the same location.

16A.215 *Enforcement.*

The Director of Community Development is authorized and directed to enforce and administer the provisions of this Chapter.

16A.220 *Interpretation.*

Interpretations of this Chapter shall be made initially by the Director of Community Development. Said interpretations shall be subject to appeal provisions as set forth in Section 16A.420. All interpretations of this Chapter are to be exercised in light of the message substitution policy and the purposes of this Chapter. Where a particular type

of sign is erected, displayed or proposed, and the type is neither expressly allowed nor prohibited by this Chapter, or whenever a sign does not qualify as a “structure” as defined in the Zoning Ordinance or the Building Regulations of the Town, then the Director of Community Development shall approve, conditionally approve or disapprove the application based on the most similar sign type that is expressly regulated by this Chapter, in light of the policies stated in this Chapter.

16A.225 *On-Site / Off-Site Distinction.*

Within this Chapter, the distinction between on-site (also known as “on-premise” or “point-of-sale”) and off-site (or off-premise or non-point-of-sale) applies only to commercial speech messages.

16A.230 *Billboard Policy.*

Billboards, as defined herein, are prohibited. The Town completely prohibits the construction, erection, installation or use of billboards. No permit shall be issued for any billboard that violates this policy, and the Town will take immediate enforcement or abatement action against any billboard constructed or maintained in violation of this policy. In adopting this provision, the Town Council affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this Chapter. The Town Council intends for this billboard policy to be severable and separately enforceable even if other provisions of this Chapter may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid, or unenforceable.

16A.235 *Non-Communicative Aspects.*

All rules and regulations concerning the non-communicative aspects of signs, such as location, size, height, illumination, spacing, orientation, etc., stand enforceable independently of any permit or approval process.

16A.240 *Discretionary Approvals.*

Whenever any sign permit, exception, variance, conditional use permit, Sign Program, or other sign-related decision, is made by any exercise of official discretion, such discretion shall be exercised only as to the non-communicative aspects of the sign, such as size, height, orientation, location, setback, illumination, spacing, scale and mass of the structure, etc. Graphic design may be evaluated only for compliance with a Sign Program, and then only as to commercial messages.

16A.245 *Mixed Uses or Overlay Districts.*

Wherever both residential and non-residential uses are allowed on the same parcel, the sign-related rights and responsibilities applicable to that parcel or land use shall be determined as follows: residential uses shall be treated as if they were located in a zone where a use of that type would be allowed as a matter of right, and non-residential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or other discretionary process.

16A.250 *Legal Nature of Sign Rights.*

As to all signs attached to real property, the signage rights, duties and obligations arising from this Chapter attach to and travel with the land or other property on which a sign is mounted or displayed. This provision does not modify or affect the law of fixtures, sign-related provisions in private leases regarding signs (so long as they are not in conflict with this Chapter or other applicable law), or the ownership of sign structures. This provision does not apply to hand-held signs, portable or movable signs, or images that are aspects of personal appearance.

16A.255 *Owner's Consent.*

No sign may be placed on private property without the consent of the property owner.

16A.260 *Prospective Regulation.*

This Chapter applies only to signs whose structure or housing has not been lawfully and permanently affixed to its intended premise on the date on which the ordinance or regulation is effective. This Chapter does not affect signs that were legally installed and that exist as of the date this Chapter first takes effect. This provision does not legalize existing signs that were built, constructed or erected without required permits or other approvals.

16A.265 *Severance.*

If any section, sentence, clause, phrase, word, portion or provision of this Chapter is held invalid or, unconstitutional, or unenforceable, by any court of competent jurisdiction, such holding shall not affect, impair, or invalidate any other section, sentence, clause, phrase, word, portion, or provision of this Chapter that can be given effect without the invalid portion. In adopting this Chapter, the Town Council affirmatively declares that it would have approved and adopted the Chapter even without any portion that may be held invalid or unenforceable.

Article III Definitions

16A.300 *Scope.*

For the purposes of this Chapter, words and phrases have the definitions stated in Section 16A.305 of this article. Grammatical inflections shall be adapted to the context. For words not defined in this article, other definitions may be applied from other sources, in this order: first, from the Zoning Ordinance (Chapter 16 of the Tiburon Municipal Code); second, from any applicable definition in Town law; third, from any applicable definition in California statutory or decisional law; fourth, from any applicable definition in any respected dictionary of the English language; and fifth, from common usage, as applied to context.

16A.305 Definitions.

For the purpose of enforcing, implementing and interpreting the provisions of this Chapter, certain terms and words are defined, as set forth in this section.

Abandoned sign. Any sign that has been abandoned for a period of one-hundred eighty (180) days or more following the closing of an establishment on the site where the sign is located; or a sign that pertains to a time, event, or purpose that no longer exists.

Accessory use. A use customarily incidental and subordinate to the principal legal use.

Animated or moving sign. A sign or sign structure capable of frequent or regular movement, including pennants, airborne balloons, moving or flashing lights, or other non-stationary devices, intended or used for commercial purposes. Flags and banners are not within this definition.

Automated Teller Machine (ATM). A mechanical device that allows for automated banking services to be performed.

Awning sign. A sign located on the face or surface of an awning.

Banner. A sign not made of rigid material and not enclosed in a rigid frame, and which is secured or mounted so as to allow movement.

Billboard. A permanent structure sign that meets any one or more of the following criteria: 1) it is used for the display of off-site commercial messages; 2) it constitutes a principal, or separate use, as opposed to an accessory or appurtenant use, of the parcel on which it is located; 3) it is used for general advertising or advertising for hire (in other words, display space is made available to parties, other than the owner or operator of the sign or occupant of the parcel); or 4) the display space is routinely made available to advertisers or sponsors other than the owner or operator of the sign, or the owner of the land upon which the sign is located, regardless of whether the display space is made available for a fee, in exchange, donation, or otherwise. However, despite the generality of the foregoing, a sign is not within this definition when display space on it is furnished or rented to establishments located on the same parcel, or in the same development. For example, an on-site shopping center sign or kiosk, listing uses or establishments in the center, is not a billboard.

Changeable copy sign. A sign that, in part or whole, provides for periodic changes in the sign copy. Examples include signs for an auditorium, theater, library, place of worship, meeting hall or similar use having changing programs or events and characterized by human assembly, but do not include electronic signs or signs on which the message is changed more than one time each day.

Commercial message. A visual image that primarily concerns the economic interests of the speaker and/or the audience; or that primarily concerns the promotion, sale and purchase of goods and/or services, or that proposes an economic transaction.

Commercial mascot. A human or live animal wearing apparel, costumery, or decorations which are intended to attract attention and present a commercial advertising message. Includes "sign twirlers," "human sandwich boards," "sign clowns" and the like.

Construction sign. A sign temporarily located on a site where construction that is subject to a building or other safety permit is underway.

Consumer Information sign. A small sign that is designed and erected for the purpose of communicating information for the safety or convenience of the consuming public. Examples of such signs include, but are not limited to, signs displaying hours of operation, nameplates, association affiliations, credit cards that are accepted, and “now hiring”, “hours of operation”, “help wanted”, “no smoking”, “open”, and “closed” signs.

Design Review Board. The Design Review Board of the Town of Tiburon or any successor thereto.

Directional sign. A sign that is designed and erected solely for the purpose of vehicular or pedestrian direction, placed to provide direction to the public. Examples of such signs include, but are not limited to, parking lot directional signs such as “enter only”, “exit”, “parking in rear,” “restricted area”, and “valet parking”; and signs directing the public to the location of restrooms and telephones.

Director of Community Development. The Director of Community Development or his/her designee.

Double-faced sign. A sign consisting of two sign faces, which are placed so that only one sign face is visible from any one location at any one time.

Electronic sign. A sign that uses electronic (LED, LCD or other video-type) lighting displays, or a sign that is capable of remotely changing messages on a frequent (more than daily) basis.

Erect. Build, construct, place, hang, relocate, install, enlarge, structurally alter or modify, affix, suspend, paint, post, or display a sign.

Establishment. Any legal use of land, other than long term residential, which involves the use of structures subject to the Building Code and the presence of human beings on the premises more than thirty-two (32) hours per week. By way of example and not limitation, this definition includes businesses, factories, farms, schools, hospitals, hotels and motels, offices and libraries but does not include single family homes, mobile homes, residential apartments, residential care facilities, or residential condominiums. Automated facilities which normally operate without the presence of human beings are not within this definition.

Establishment frontage. The portion of a building, measured in linear feet, containing a single establishment, which is parallel to and fronts on a public street, public right-of-way, public parking lot, public parking garage, or a publicly-traveled waterway, including San Francisco Bay.

Flag. Any fabric, banner, or bunting containing distinctive colors, patterns, or design, used as a symbol.

Flagpole. A pole upon which to raise a flag.

Flashing sign. Any sign that is perceived as an intermittent or flashing light. “Flashing” is a light or message that changes more than once every four (4) seconds.”

Freestanding sign. Any sign that is designed and constructed as a stand-alone structure, which is self-supporting on the ground and not materially affixed

to or attached to a building. Types of freestanding signs include pole or pylon signs and monument signs, but not *Portable signs* as defined herein.

Halo or halo-type sign. A sign where the light source is concealed behind an opaque face and the rays of illumination are projected outwards toward the edge of the sign forming a “halo” effect around the exterior of the sign. Light does not pass through the face of a Halo sign.

Height. The plumb vertical distance measured from the uppermost part of a sign to the grade below lowest part of a sign (or to the ground level if appropriate).

Illuminated sign. Any sign intentionally illuminated from an internal or external artificial light source. Ambient lighting does not qualify as illumination of a sign.

Internally-illuminated sign. A sign where the light source is internal to the sign and the illumination passes through the face of the sign. Neon signs are not included in this definition.

Legally-authorized sign. A sign required, authorized by, or displayed by a governmental agency or other applicable law.

Mansard sign. Any sign attached to or supported by a mansard roof.

Marquee sign. Any sign that is on top of, or attached to, the face of a marquee, canopy, cantilevered covered walkway, or arcade, whether parallel to or at right angles with the face of the building. See also *Under Marquee sign*.

Monument sign. A freestanding sign that is supported by a solid base or foundation rather than by one or more poles, posts, or pylons.

Multiple-tenant building. A building containing more than five (5) uses or establishments, not including residential apartment buildings.

Multi-tenant sign. A sign that displays a list of multiple tenants, businesses or establishments in one or more buildings located on one site or contiguous development.

Nameplate. A small sign identifying the name and/or address of an occupant or establishment.

Natural despoliation sign. A sign that is cut, burnt, limed, painted or otherwise marked on a cliff, hillside, field, tree, rock or other natural feature.

Neon sign. Any sign containing neon or other visible discharge gas.

Off-site sign. A sign that is not located on the property or premises of the use, business, profession, commodity, service or entertainment for which it advertises. The on-site/off-site distinction applies only to commercial speech messages.

On-site sign. A sign which pertains to commercial activities or interests of an establishment on the same site or within the same development. The on-site/off-site distinction applies only to commercial speech messages.

Pole or pylon sign. A freestanding sign that is supported by one or more poles, posts, or pylons, whether visible or covered with cladding.

Portable sign. Any sign not permanently affixed to the ground or to a building or structure, including, without limitation, “pedestal”, “A-frame”, H-frame” and “I-frame” signs. This also includes signs on wheels or mounted on wheeled but non-motorized vehicles.

Projecting sign. Any sign that projects from the face of a building by more than twelve inches and is supported by brackets, a projecting post, frame, or similar device, which is anchored to the building face.

Real Estate sign. Any sign, temporary in nature, the copy of which concerns a proposed economic transaction involving real property. This definition does not include occupancy signs at establishments offering transient occupancy, such as hotels and motels. All signs within the scope of Civil Code 713 are within this definition.

Roof sign. Any sign erected upon or above a roof or parapet wall of a building, or placed above the apparent flat roof or eaves of a building, or the top of a mansard roof.

Shopping Center. Any combination of ten (10) or more establishments on a single or commonly owned or leased group of parcels where common vehicular access from the street and common on-site parking facilities are provided.

Sign. (a) Any device, object, structure, fixture, or placard displaying graphics, symbols, and/or written copy for the primary purpose of communicating with the public, when such image is visible from any public right of way.

(b) Notwithstanding the generality of subsection (a), the following are not within this definition: 1) Automated teller machines (ATM's), as defined herein; 2) Architectural Features, including decorative or architectural features of buildings (not including lettering, trademarks or moving parts); 3) Fireworks, including the legal use of fireworks, candles and artificial lighting not otherwise regulated by this Chapter; 4) Grave stones, grave markers, headstones, and other markers of the deceased; 5) Holiday and cultural observance decorations on private residential property and that are on display for not more than forty-five (45) days per year (cumulative, per parcel or use) and which do not include commercial advertising messages; 6) Interior signs or other visual communicative devices that are located entirely within a building or other enclosed structure and are not visible from the exterior thereof, provided the building or enclosed structure is otherwise legal; 7) Manufacturer's marks on tangible products, which identify the maker, seller, provider or product, and which customarily remain attached to the product even after sale; 8) Graphics or images mounted on buses, ferries or duly licensed mass transit vehicles that legally pass through the Town; 9) News racks and news stands; 10) Overhead signs such as graphic images, which are visible only from above, such as those visible only from airplanes or helicopters, only if not visible from the street surface or public right-of-way; 11) Personal appearance items or devices of personal apparel, decoration or appearance, including tattoos, makeup, wigs, costumes, masks, *etc.* (but not including commercial mascots); 12) Search lights and klieg lights when used as part of a search and rescue or other emergency service operation; this exclusion does not apply to search lights or klieg lights used as attention attracting devices for commercial or special events; 13) Shopping carts, golf carts, personal scooters, human-powered taxis, horse drawn carriages and similar devices (but not including any motorized device which may legally be operated on any public road); 14) Non-commercial symbols embedded

in architecture including, but not limited to, by way of example and not limitation, stained glass windows, carvings on doors, frieze and bas relief statuary, color bands around buildings, foundation stones, corner stones, when such are permanently integrated into the structure of a permanent building which is otherwise legal; 15) Vehicle and vessel insignia on street-legal vehicles and properly licensed watercraft: license plates, license plate frames, registration insignia, non-commercial messages, messages relating to the business of which the vehicle or vessel is an instrument or tool (not including general advertising) and messages relating to the proposed sale, lease or exchange of the vehicle or vessel; 16) Vending machines that do not display offsite commercial messages or general advertising messages; 17) Weather flags, nautical flags and pennants when displayed on boats, in marinas, or on any land area within fifty (50) feet of water frontage, where primarily intended to be viewed from the water and which do not display commercial messages; and 18) Displays of merchandise in a store window.

Sign area. The surface area of a sign, as measured using the procedure described in section 16A.610.

Sign Program. A program providing a coordinated signing plan for multiple establishments or uses, in specified situations set forth in Section 16A.525, and which utilizes one or more common elements such as color, materials, lettering, illumination, sign type, and sign shape.

Subdivision or neighborhood identification sign. A sign placed near the entrance to a development or subdivision and used to identify the area.

Town Property. Real property over which the Town: a) holds an interest; including, without limitation, fee title ownership, easement, leasehold, and public street right-of-way; and b) has the present right of possession and control.

Under marquee sign. Any sign hung or suspended below a marquee, canopy, cantilevered covered walkway, or arcade, but that is not directly attached to a building in the manner that a projecting sign would be. Such signs are also known as overhead-mounted hanging signs or blade signs.

Visibility triangle. That portion of both public and/or private property at any corner bounded by the curb line or edge of a roadway of the intersecting streets and a line joining points on the curb or edge of the roadway fifteen (15) feet from the point of intersection of the extended curb lines or edges of the roadway.

Wall sign. Any sign painted on or attached parallel to the wall of a building and projecting not more than twelve (12) inches horizontally outward from the building wall.

Wind blown device. Any sign activated by air or gas that visibly moves when activated.

Window sign. A sign painted on or attached to a window, or inside a building within ten (10) feet of a window, and designed to be viewed by the general public from outside the building in which the window is located.

Article IV Applicability and Interpretation

16A.400 *Compliance as of Effective Date of this Chapter.*

The provisions of this Chapter shall apply to all signs erected on or following March 20, 2009 and shall apply to all signs unlawfully erected prior to March 20, 2009, and shall apply to all incomplete, unprocessed or undecided sign permit applications as of March 20, 2009.

16A.405 *Compliance with Applicable Laws, Rules, and Regulations.*

All signs posted, erected or constructed on or following March 20, 2009 shall comply with this Chapter and all other applicable laws, rules, and regulations.

16A.410 *Requirements for Associated Town Permits and Approvals.*

Any associated Town permit or approval required for a sign, including but not limited to a building permit, electrical permit, encroachment permit, or zoning permit (e.g., conditional use permit or site plan & architectural review permit) shall be obtained before the sign is erected. Application review for such permits shall not consider message content or graphic design of the proposed sign. Applications for such permits may be pursued simultaneously, and such permits may be approved subject to approval of all other required permits.

16A.415 *Automated Teller Machine (ATM).*

The provisions of this Chapter shall not apply to an automated teller machine (ATM) or the affiliation logos that are an integral part of the ATM. This Chapter shall apply to signs or advertising that are not essential to the functioning of the ATM. Any ATM shall be subject to Site Plan and Architectural Review approval pursuant to Chapter 16 of the Tiburon Municipal Code.

Article V Sign Application and Permit Procedures

16A.500 *Sign Permit Required.*

Except for those signs that are specifically exempt under Sections 16A.710, 16A.725, 16A.800, or 16A-810, all signs shall require the approval of a Sign permit and shall follow the permit procedures set forth in Sections 16A.500 through 16A.540. Only signs authorized by this Chapter may be built, installed, displayed, erected or maintained within the Town. All signs are subject to a permit requirement unless expressly exempted. Signs exempted from the permit requirement still must satisfy all applicable rules.

16A.505 *Application and Completeness Review.*

Any person seeking a permit for a sign, for which a permit is required, shall submit to the Director of Community Development a written application for such sign permit. The Director of Community Development shall prepare a sign permit application form and provide it to any person on request. The same form may be used for both the application and the decision thereon. A single application may be filed to apply for multiple signs on the same site or for the same establishment. A sign permit application is complete only when it is accompanied by the appropriate application fee, in an amount set by resolution of the Town Council. In the case of after-the-fact permitting, the otherwise applicable fee shall be doubled. The application form may call for the following information:

- (a) Name, address and telephone number of the applicant and, if applicable, the name, address, and telephone number, as well as the contractor's license number, if any, of the sign contractor;
- (b) Street or site address, assessor parcel number, zoning district, and use (i.e., single family residential, multi-family residential, commercial, or other) of the property where the proposed sign(s) are to be displayed;
- (c) Accurate, dimensioned, and scaled site plan showing the location of property lines, buildings, parking areas, driveways, landscaped areas, and existing and proposed signs on the site; as to existing signs, information as to whether each was permitted or exempt from permitting;
- (d) Accurate and scaled elevation drawings depicting proposed signs and the proposed colors of the signs, and accurate and scaled elevations showing existing signs located elsewhere on the property;
- (e) The total number of signs proposed and the aggregate sign area of those signs;
- (f) Number and linear length in feet of each establishment frontage for the use or establishment;
- (g) Total allowance of sign area in square feet in accordance with the type of use;
- (h) For each sign proposed or existing and to remain:
 - (1) Proposed sign type;
 - (2) Proposed sign materials;
 - (3) Proposed sign area and dimensions (length, width, and height);
 - (4) Proposed sign colors;
 - (5) Proposed method of illumination (if any);
 - (6) Proposed form of sign attachment (be specific);
 - (7) Proposed duration (permanent or temporary);
- (i) Written evidence of all owners' consents, such as land owner or lessor;
- (j) A statement as to whether the use or establishment occupies the entire building, and if not, the number of other uses or establishments in the building;
- (k) A statement as to whether the sign is intended to be used in whole or in part for off-site commercial messages, advertising for hire or general advertising;
- (l) A statement as to whether any sign would be located off-site (not on the property where the use is located), and if so, a precise description of the proposed off-site location;

(m) A statement as to whether the sign would project over Town Property or street right-of-way, and if so, the proposed distance of encroachment and the height of the sign above ground level at the area of encroachment;

(n) A statement or graphical description as to whether the proposed sign, or any part of it, is proposed to utilize any of the following physical devices: sound; odor, smoke, flashing images, changeable electronic display, fumes or steam; rotating, moving or animated elements; activation by wind or forced air; neon or other visible discharge gases; fluorescent or day-glow type colors; flashing or strobe lighting; liquid crystal displays or other video-like methods; use of live animals or living persons as part of the display; mannequins or statuary;

(o) A statement as to whether the specific permitted use for which the sign is proposed to be erected or displayed, or any currently existing sign thereon associated with the specific permitted use, is the subject of any outstanding notice of zoning violation or notice to correct, including whether any such deficiencies are to be remedied by the proposed application;

(p) Current photographs of the existing property, parcel, and/or building on which a sign is proposed to be erected or displayed;

(q) In the case of any proposed sign that is subject to a discretionary process, such as a variance, conditional use permit, site plan and architectural review, or sign program, all relevant information required by such process(es);

(r) The Director of Community Development is authorized to modify the list of information to be provided on a sign permit application; however, additions may be made only after thirty (30) days public notice.

The Director of Community Development shall determine whether the application contains all the required information or contains sufficient information to act on the application. If it is determined that the application is not complete, the applicant shall be so notified in writing within thirty (30) days of the receipt of the application; the notice shall state the points of incompleteness and identify any additional information necessary to make the application complete. The applicant shall then have one opportunity, within thirty (30) days, to submit the required information; failure to do so within the thirty-day period shall render the application void. In the case of a timely resubmission, the application fee need not be paid a second time.

16A.510 *Review Authority.*

Review authority over Sign permits pursuant to the provisions and requirements of this Chapter is vested with the following review authorities:

(a) *Director of Community Development.* The Director of Community Development has the authority to:

(1) Act on a Sign Permit application, as set forth in Section 16A.535(a).

(2) Act on requests for Minor Exception, as set forth in Section 16A.535(b).

(3) Act on requests for time extension to an approved Sign Permit, pursuant to Section 16A.540.

(4) Act on requests for time extension to an approved Sign Program, pursuant to Section 16A.540.

(5) Refer any Sign Permit application to the Design Review Board for action, pursuant to Section 16A.510(b).

(b) *Design Review Board.* The Design Review Board has the authority to act on:

(1) Sign Permit applications referred by the Director of Community Development.

(2) A Sign Program, and any amendments thereto, as set forth in Section 16A.525.

(3) Signs requiring a Major Exception, as set forth in Section 16A.520.

(4) Appeals of Sign Permit decisions of the Director of Community Development.

(c) *Appeals.*

(1) General Provisions of Appeal.

The appeal right arises at the earlier of: a) whenever a written decision is delivered to the applicant, or b) the time for decision has run without a written decision. In this context, “delivered” means personally delivered or placed in the U.S. Mail, first class delivery, whichever occurs first.

(2) Appeals of Decisions of the Director of Community Development.

A decision of the Director of Community Development may be appealed to the Design Review Board by any affected person within five working (5) days of the decision. The appeal process is begun by filing a written notice of appeal with the Town Clerk particularly stating the matter appealed from and the grounds for the appeal. The Design Review Board shall hear the appeal and render a decision on the appeal within thirty (30) days of the filing of the appeal. The timely decision requirement may be waived by the applicant and/or appellant.

(3) Appeals of Decisions of the Design Review Board.

A decision of the Design Review Board, except on appeal from a decision of the Director of Community Development, may be appealed to the Town Council by any affected person within ten (10) days of the decision. The appeal process is begun by filing a written notice of appeal with the Town Clerk particularly stating the matter appealed from and the grounds for the appeal. The Town Council shall hear the appeal and render a decision on the appeal within forty-five (45) days of the filing of the appeal. The timely decision requirement may be waived by the applicant and/or appellant. Following a final decision by the Town Council, the applicant or any appellant may seek judicial review of the final decision on a sign permit application pursuant to California Code of Civil Procedure Section 1094.5 and or 1094.6 or 1094.8, as applicable. Such judicial review must be filed within thirty (30) days of notice of final decision, unless State law otherwise provides.

(4) Status Quo. During the pendency of appeal or judicial review, the status quo of the subject sign(s) shall be maintained. This does not apply when an existing sign, or sign under construction, by virtue of its physical condition, constitutes a significant and immediate threat to public safety.

16A.515 *Criteria for Approval of Sign Permit Applications; Conditions.*

(a) If a Sign permit application complies with all requirements of this Chapter and with all other applicable laws, rules and regulations, the permit shall be approved and issued within the required time limits set forth in Section 16A-535.

(b) A Sign Permit application may be approved subject to conditions, so long as those conditions are required by this Chapter or some other applicable law, rule or regulation. Compliance with all applicable safety codes, including but not limited to building and electrical codes, shall be a condition of all Sign permit approvals, where applicable.

16A.520 *Exceptions (Major and Minor).*

When a proposed sign(s) deviates from the provisions and standards of this Chapter pertaining to sign area, height, setback, spacing, location, placement, type, number, orientation, illumination, or safety factors for construction materials and methods, an Exception request may be filed with a Sign permit application, subject to the following:

(a) *Minor Exception.* A Minor Exception applies to requests that deviate from the sign provisions for sign area or sign height by less than twenty (20) percent. Notwithstanding the foregoing, any sign area Exception involving no more than five (5) square feet, or involving transfer of sign area from one frontage to another pursuant to Section 16A.720(c), shall be deemed a Minor Exception.

(b) *Major Exception.* A Major Exception is any Exception other than that described in subsection (a) above as a Minor Exception.

(c) *Findings for Approval of an Exception.* The following findings shall be made in rendering a decision on a request for Exception:

(1) The Exception is necessary to overcome special or unusual site conditions such as exceptional building setbacks, and lack of or limited visibility due to orientation, shape or width of the property and/or building improvements;

(2) The Exception is appropriate in that it would allow signage that would be in harmony and scale with the building and site improvements, and would be physically compatible with other conforming signs in the immediate vicinity; and

(3) The Exception would permit an improvement that would not be detrimental or disruptive to the safety or flow of vehicular or pedestrian traffic either on-site or off-site.

(d) *Not applicable to Prohibited Signs.* The Exception process shall not apply or be used to permit any prohibited sign, as set forth under Section 16A.805 of this Chapter. Exceptions may not be used to authorize off-site commercial messages on permanent structures in fixed locations.

16A.525 *Sign Programs.*

The establishment of a Sign Program is encouraged as an alternative to the sign standards and provisions contained in this Chapter under certain circumstances, as follows:

(a) *Purpose.* Sign Programs are specifically intended for properties with multiple establishments on one site or multiple signs for uses with special sign needs. Sign Programs shall be used to achieve aesthetic compatibility among the signs

within a project, and may allow some flexibility in the number, size, height, type, setback, spacing, illumination, location, orientation, and placement of signs.

(b) *Applicability.* Sign Programs are permitted specifically for shopping centers, multiple-tenant buildings, lots or parcels with more than five (5) buildings or establishments under the same ownership or within the same development, motor vehicle fueling stations, and movie or live stage theaters. Sign programs shall not be used to allow signs that are expressly prohibited by this Chapter.

(c) *Design Continuity.* Sign Programs shall be designed so that all signage has a consistent and common structural and physical design theme and placement, utilizing common materials, colors and illumination.

(d) *Findings required for approval of a Sign Program.* The Design Review Board shall make the following findings in rendering a decision on an application for a Sign Program:

(1) All of the signs contained in the program have one or more common design elements such as placement, colors, architecture, materials, illumination, sign type, sign shape, letter size and letter type;

(2) All of the signs contained in the program are in harmony and scale with the materials, architecture, and other design features of the buildings and property improvements they identify, and the program is consistent with the General Design Principles specified in Section 16A.620.

(3) The amount and placement of signage contained in the program are in scale with the subject property and improvements, as well as the immediately surrounding area.

16A.530 *Permits Issued in Error; Revocation or Cancellation.*

(a) *Permits Issued in Error.* Any approval or permit issued in error may be summarily revoked by the Director of Community Development upon written notice, to the holder, stating the reason for the revocation. "Issued in error" means that the permit is not in compliance with rules, regulations or other provisions contained within this chapter and therefore should not have been issued in the first place.

(b) *Revocation or Cancellation.* The Director of Community Development may revoke any approval or permit upon refusal or failure of the permittee to comply with the provisions of the permit or this Chapter after written notice of non-compliance and at least fifteen (15) days opportunity to cure. The notice and opportunity to cure does not apply when a sign, by virtue of its physical condition, constitutes an immediate and significant threat to public safety.

16A.535 *Processing and Noticing Requirements.*

The following processing and noticing procedures shall be followed prior to rendering a decision on an application for a Sign permit, an Exception or a Sign Program:

(a) *Sign Permit, administrative approval.* Following review of a Sign permit application for compliance with the provisions of this Chapter and other applicable laws, rules and regulations, the Director of Community Development, or his/her designee, may render a decision on the application. A decision on a Sign permit application may be rendered without notice to surrounding property owners.

(b) *Minor Exceptions.* Following review of an application for and prior to rendering a decision on a Minor Exception, property owners contiguous to the subject property shall be mailed a notice informing them of the Director of Community Development's intent to act on the application. Good faith efforts to provide a copy of the notice to adjacent establishments shall also be made. The notice shall indicate that the Director of Community Development will take action on the application, on or after a specified date, which date shall be at least ten (10) days following the date of the notice.

(c) *Major Exceptions and Sign Programs.* Major Exceptions, Sign Programs (including amendments thereto), appeals, and other sign-related applications requiring Design Review Board action shall require notice of the hearing date to be mailed to property owners within three hundred (300) feet of the subject property a minimum of ten (10) days prior to the hearing. Good faith efforts to provide a copy of the notice to adjacent establishments shall also be made.

(d) *Prompt review and decision.* Review and decision on any Sign permit, Exception, or Sign Program application shall be prompt and expeditious and in no event shall exceed thirty (30) days after the application is accepted as complete. If a decision is not rendered within the required time limit the application shall be deemed denied. In the case of an appeal, the appeal shall be heard and acted upon within thirty (30) days of its filing. Time limits may be waived by an applicant and/or appellant. Judicial review may be in accordance with the provisions of Code of Civil Procedure Sections 1094.5 and 1094.6 or 1094.8, as applicable.

(e) *Multiple Sign Applications.* When an application proposes two or more signs, the application may be approved either in whole or in part, with separate decisions as to each proposed sign. When a multiple sign application is denied in whole or in part, the reviewing authority shall specify in writing the grounds for such denial.

(f) *Disqualification.* No Sign permit application will be approved if:

(1) The applicant has installed a sign in violation of the provisions of this Chapter and, at the time of submission of the application, each illegal or non-permitted sign has not been legalized, removed or a remedy included in the application;

(2) There is any other existing municipal code violation located on the site of the proposed sign(s) with the same specifically permitted use (other than an illegal or nonconforming sign that is not owned or controlled by the applicant and is located at a different establishment), which has not been cured at the time of the application, unless the noncompliance is proposed to be cured as part of the application;

(3) The sign application is substantially the same as an application previously denied, unless: (i) at least twelve (12) months have elapsed since the date of the last application, or (ii) substantial new evidence or proof of changed conditions is furnished in the new application;

(4) The applicant has not obtained any required encroachment permit, site plan and architectural review permit, conditional use permit, variance, or other zoning permit. However, applications for such permits may be processed simultaneously with a sign permit application.

16A.540 *Expiration of Sign Permits.*

(a) *Initial time limits.* All Sign Permit, Sign Program and Exception approvals shall expire one hundred and eighty (180) days from issuance, unless the approved sign(s) has been erected and has passed all final inspections, or is underway on such date and is thereafter diligently pursued to completion.

(b) *Time limits for extensions.* Prior to expiration of a Sign Permit, Sign Program or Exception, the applicant may apply to the Director of Community Development for an extension from the date of expiration. Upon such application, the approval may be extended one time only for one hundred and eighty (180) days from the original date of expiration.

Article VI **General Sign Provisions**

16A.600 *Compliance Required.*

All signs subject to the provisions of this Chapter shall comply with the following general sign provisions.

16A.605 *Types of Signs.*

Examples of sign types are presented in Figure 16A-1. A definition for these sign types is provided in Section 16A.305 of this Chapter. The type of sign that is permitted for an establishment shall be regulated by type of use, as specified in Section 16A.700 et seq. of this Chapter.

16A.610 *Sign Area: Computation/Determination of Permitted Sign Area.*

To determine sign compliance with sign area limitations of this Chapter, sign area shall be measured as follows:

(a) *Measuring surface sign area.* Surface area of a sign shall be calculated as follows:

(1) By enclosing the extreme limits of all framing, writing, logo, representation, emblem and other display including, but not limited to, telephone numbers and internet web site addresses within a single continuous perimeter composed of squares or rectangles. This method of sign measurement is depicted in Figure 16A-2.

(2) When a sign is comprised of individual letters, which appear as an unframed surface, the script and logo for each line shall be calculated separately. When distance between two lines of script is more than twice the height of the script, each line shall be counted as a separate and individual sign.

(3) The area of the sign shall be taken as the area of one face.

(b) *Measuring three-dimensional objects.* Signs that are spherical, conical, cylindrical or non-geometric three-dimensional shapes shall be measured as the area of their maximum projection upon a vertical plane. The method of such sign measurement is depicted in Figure 16A-3.

(c) *Measuring double-faced (back-to-back) signs.* The area of a double-faced sign where only one sign face can be seen at one time from any location shall be calculated as a single sign face.

(d) *Measuring double-faced or multiple-faced signs where more than one sign face is visible from any one location.* The maximum area of all faces that can be seen at one time from any location shall be counted in the calculation of sign area.

(e) *Tubing or strings of lights.* Illuminated tubing and strings of lights used to outline a sign or portions thereof shall be included in the calculation of permitted sign area. The tubing or strings of light shall be deemed to have a minimum width of six (6) inches in the calculation of the sign area. When illuminated tubing and strings of lights border an area that forms a substantially closed geometric shape, which contains signage within this shape, all area within the closed shape shall be considered sign area.

(f) *Clocks and temperature display.* Elements of a sign displaying time of day and/or temperature shall be included in measuring the surface sign area. Such elements are prohibited if they constitute an animated or moving sign as defined herein.

(g) *Supporting framework, bracing, pedestals or foundations.* Supporting framework, bracing, pedestals or foundations that are clearly incidental to or separate from the sign display shall not be computed as sign area. Examples of this condition would be a solid foundation or pedestal base on a monument-type sign. When such members are designed or illuminated so as to contribute to the advertising qualities of the sign display, the area of such members shall be computed as sign area.

(h) *Sign Frames.* Signs that are framed or have distinguishing color background shall be measured by the entire area of the sign and background, including the framing surfaces.

Figure 16A-1: Types of Signs

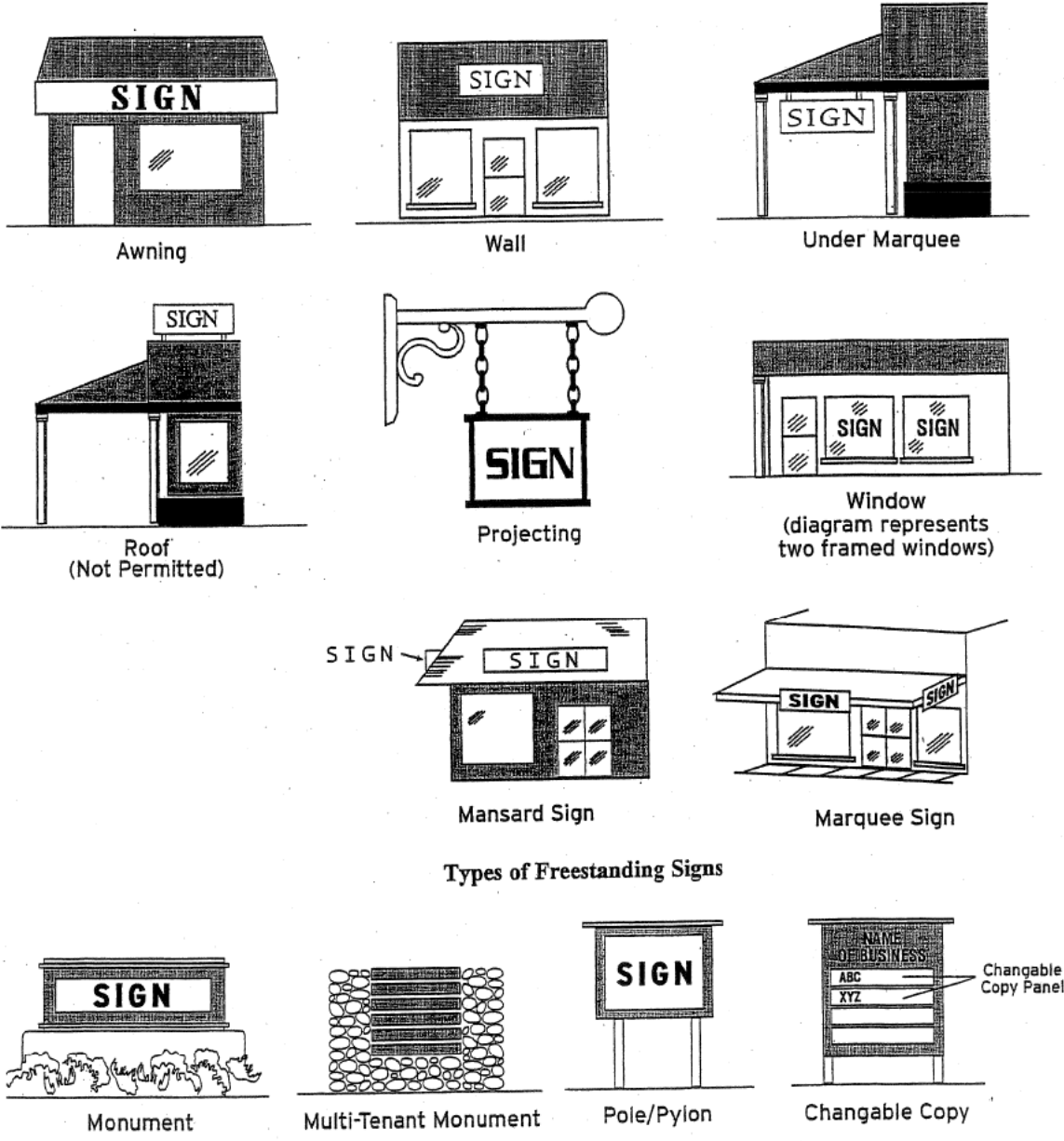


Figure 16A-2: Measuring Surface Sign Area

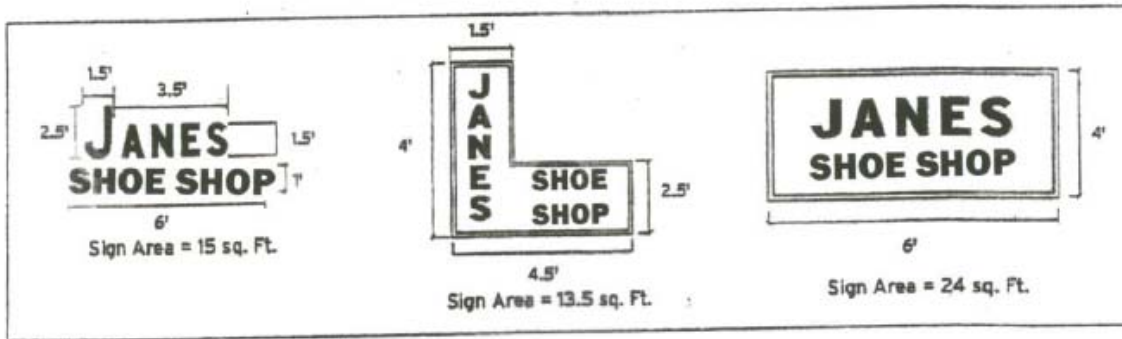
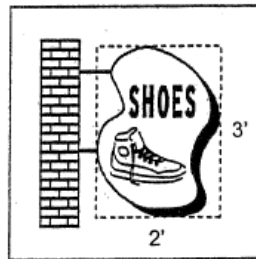


Figure 16A-3: Measuring Three-Dimensional Signs



Sign Area = 6 sq. Ft.

16A.615 Location, Placement and Safety Rules.

The location and placement of a sign shall be subject to the following:

(a) *On-site location only.* All signs displaying commercial messages shall be located on the same site, building or development as the subject establishment, except as otherwise permitted by the provisions of this Chapter.

(b) *Hazardous Location.* No sign may be placed or located in such a manner as to constitute a safety hazard or to impede the public use of the public right of way, by factors including, but not limited to, sight distance and tripping hazard; and no sign shall be erected, mounted or displayed in such a manner that it blocks or impedes the normal pedestrian use of public sidewalks.

(c) *Prohibited Mountings.* Other than official government signs or warning signs required by law, no sign shall be placed in or upon median strips or islands, bridges, benches, traffic signals, utility poles, utility equipment, street lights, traffic signs, traffic sign posts or supporting structures, or on anchor wires or guy wires. No sign may be cut, burned, marked or in any other manner displayed on a cliff, hillside or tree.

(d) *Intersection Visibility.* Signs erected or maintained at or near any street intersection may not obstruct the free and clear vision of drivers and pedestrians. Other than traffic control signals, no sign shall be installed in the visibility triangle at intersections.

(e) *No obstruction of exits, windows and safety equipment, etc.* No sign shall be erected in any manner where a portion of the sign or its supports would interfere with the free use of any fire escape, exit or standpipe, or obstruct any required stairway, door, ventilator, window, handicapped ramp or access, or required parking space.

(f) *Maintenance of adequate sight distance.* No sign shall be erected in any manner or location where it will physically impede or cause hazardous obstruction to the visibility of vehicles or persons entering or exiting doorways or driveways.

(g) *General placement of signs.* The permitted sign(s) for an establishment shall be placed on the street front face or elevation of the building where the establishment is located (see definition for establishment frontage in Section 16A.305). Where an establishment is located in a building that has no street frontage, is located on a one-way street, or where public visibility of the front face or entrance of an establishment is limited or impaired, the permitted sign may be placed on the side or rear face or elevation of the building where the establishment is located.

(h) *Establishment frontage on corner lots.* On corner lots where establishment frontage exists on two streets, signs may be placed on both frontages, but the permitted square footage for each establishment frontage may be transferred from one frontage to another only by granting of an Exception.

(i) *Establishment frontage on a public parking lot or public parking structure, or publicly-traveled waterway.* Where establishment frontage exists on a parking lot or parking structure generally open to the public, or on a publicly-traveled waterway such as San Francisco Bay, this establishment frontage shall be considered the same as establishment frontage on a public street when determining permitted sign area.

(j) *Placement of Wall and Window Signs.* No wall sign shall project more than twelve (12) inches from the wall to which it is affixed; nor shall any portion of a wall sign extend above a roof line in such manner that it becomes a roof sign. No more than twenty-five (25) percent of the area of a framed window or a continuous window area shall be used for a sign or signs. When a window contains multiple panes, the framed area of the whole window, inclusive of the individual paned areas, shall be used in calculating the permissible sign area. Window signs shall be counted against the overall permitted sign area and number, and shall be subject to the same provisions and limitations as for wall signs.

(k) *Location and Placement of Marquee and Under Marquee Signs.* The location and placement of marquee signs and under marquee signs shall be subject to the following provisions:

(1) A minimum vertical clearance of eight (8) feet above the sidewalk, path, public property, public right-of-way or easement shall be maintained.

(2) Signs shall not project beyond the ends or sides of the marquee.

(3) Signs placed on the face of a marquee may extend above the top of the marquee provided that this extension is not more than one-half the height of the marquee face and is below the building roofline.

(4) An under marquee sign shall not exceed ten (10) square feet in area.

(5) When marquee and under marquee signs are illuminated, the conduit and wiring that provides the source of illumination shall be concealed or screened, to the extent feasible.

(l) *Location and Placement of Projecting Signs.* The location and placement of projecting signs shall be subject to the following provisions:

(1) A projecting sign shall not exceed ten (10) square feet in area.

(2) A minimum vertical clearance of eight (8) feet above the sidewalk, path, public property, public right-of-way or easement shall be maintained.

(3) Signs shall be placed at or below the sill of the second floor windows in a multi-story building or below the eave line of a single-story building. Projecting signs shall be permitted for a ground floor establishment only.

(4) Signs, including any structural members, shall not project more than a distance of six (6) feet from the building face. In no case shall any sign project to a distance nearer than two (2) feet from the street curb.

(5) Signs placed near the side property line or side building wall line facing two streets or rights-of-way shall be set back from the corner to maintain appropriate sight distance.

(6) When projecting signs are illuminated, the conduit and wiring that provides the source of illumination shall be concealed or screened, to the extent feasible.

(7) No projecting sign shall extend above the top level of the wall or in any other manner such that it becomes a roof sign.

(m) *Location and Placement of Mansard Signs.* Mansard signs shall be located on the lower two-thirds (2/3) of the roof slope and shall not project more than three (3) feet from the sloped roof face at any point. The sign ends of a mansard sign shall be designed to return and be flush with the mansard roof, so that the rear of the sign and the sign bracing are not visible.

(n) *Location, Placement and Illumination of Awning Signs.* The location and placement of awning signs shall be subject to the following provisions:

(1) Signs may be placed on the front and sides (ends) of the valance of the awning. However, each sign placed at these locations shall be counted as one of the permitted signs for the establishment.

(2) The sign shall cover no more than fifty (50) percent of the front face area of the awning and no more than fifty (50) percent of the awning sides (ends).

(3) When awning signs are illuminated, the illumination shall be limited to the sign script and/or logo only. Illumination designed to light the entire awning is not permitted.

(4) Lettering on awning signs shall be contained in a single line limited to the awning face (valance) perpendicular to the ground below.

(o) *Location and Placement of Freestanding Signs.* The location and placement of freestanding signs shall be subject to the following provisions:

(1) No freestanding sign shall be placed in any location that the Town determines would interfere with vehicular or pedestrian safety.

(2) A freestanding sign shall not exceed eighteen (18) feet in height; and a monument sign shall not exceed five (5) feet in height. A freestanding sign on a single support pole shall not exceed twelve (12) feet in height. Shopping centers located on parcels over three (3) acres in area may have a twenty (20) foot high freestanding sign.

(3) Freestanding signs are permitted on lots or parcels that have a minimum frontage width of fifty (50) feet.

(4) Freestanding signs are permitted on lots and parcels with a minimum building setback from the property line of fifteen (15) feet, except along Ark Row (72 through 130 Main Street).

(5) No freestanding sign shall be less than four (4) feet from any other sign, building, or structure.

(6) Freestanding signs are prohibited on Lower Main Street (1 through 55 Main Street).

(p) *Changeable Copy Signs.* Changeable copy signs are allowed only in conjunction with non-residential uses. The maximum sign area devoted to changeable copy on any sign shall not exceed fifteen (15) square feet. Lighting shall be external indirect only. Maximum height is eight (8) feet. Mounting methods are limited to wall, window, marquee, and freestanding.

(q) *Signs on Historic Buildings.* Signs located on buildings designated by the Town Council as Historical Landmarks, or on buildings listed on the Local Historic Inventory of Buildings Located in Downtown Tiburon, adopted by Resolution of the Town Council, shall be compatible with, and shall not detract from, the historic character and defining elements of the building.

16A.620 *General Design Principles.*

The Town encourages signs requiring a Sign permit to employ the following principles of design:

(a) *Sign design.* Should be physically compatible with the building/surroundings.

(b) *Sign colors and materials.* Should be:

(1) Physically compatible with the building/surroundings.

(2) Metal/reflective materials to be matte or non-glare surface.

(3) High quality and durable materials.

(c) *Multiple-Tenant Buildings, Uniform Treatment.* A uniform treatment of sign type, colors, materials, design and illumination is encouraged for shopping centers and multiple-tenant buildings. When new signs are proposed for existing buildings with multiple tenants and signs, such signs should reflect where possible the general sign type, colors, materials, design and illumination that is prominent on the building. Adoption of a Sign Program pursuant to Section 16A.525 is highly recommended for shopping centers and multiple-tenant buildings to reduce processing time for sign permit applications and facilitate compliance with Town regulations.

(d) *Downtown Area Signs.* The following additional principles of design are encouraged for signs located in Downtown Tiburon, and are derived from the Downtown Tiburon Design Handbook, at pages 49-55, which may be referenced on the Town of Tiburon website for further guidance.

- (1) Signs should physically complement the architecture of the building or storefront.
- (2) Signs should preserve the transparency of the storefront.

16A.625 ***Illumination Standards.***

The illumination of signs from an artificial source shall be minimized to avoid light spillage, nuisance, momentary blindness or other hazard, unreasonable brightness, glare, or other annoyance, disability, or discomfort to persons within view of such light sources. Exterior lighting shall be designed to eliminate off-site spread of light through the use of hooded, low-level, low-wattage light fixtures, which cast light in a downward direction. When illumination is proposed, it shall be subject to an electrical permit. The required sign illumination standards are as follows:

(a) *Sign illumination regulated by type of land use and sign type.* The type of sign illumination (if any) permitted is as specified in Section 16A.700 et seq., and as otherwise set forth in this Chapter.

(b) *Allowable Illumination.* All lighting shall comply with the current lighting code requirements adopted pursuant to Chapter 13 of the Tiburon Municipal Code. The following types of illumination are allowable:

(1) Halo-type illumination. The light source is concealed behind an opaque face and the rays of illumination are projected outwards toward the edge of the sign forming a “halo” effect around the exterior of the sign. Lighting that passes through the face or individual lettering of the sign is not allowed.

(2) External, indirect illumination. The light source is exposed and directed toward the sign face but is shielded or concealed from view with proper shields or glass lenses to avoid glare. Examples of external illumination include gooseneck light fixtures and ground mounted light fixtures.

(3) Reflective illumination. Illumination that is not florescent or electrically charged, but that responds to light, such as from passing vehicle headlights, by shining or glowing.

(4) Neon. Neon or other visible discharge gas may be used only on non-residential establishments and shall not exceed ten (10) percent of the sign area.

(c) *Exposed Lighting.* Signs using exposed light sources, including but not limited to neon tubing or visible discharge gas, may be conditionally approved such as to receive final approval only when, within sixty (60) days of commencement of operation of the lighting and sign, the Director of Community Development finds that the light from the sign does not cause unreasonable glare or annoyance to persons of ordinary sensibility. When such condition is applied, the sign owner must immediately inform the Director in writing of the commencement of operation of the lighting and sign such that the Director’s review may proceed expeditiously. Failure to so notify the Director shall toll the commencement of the sixty (60) day review period commensurate with the delay in written notification. The Director’s finding as described above may be made only after a duly noticed hearing at which evidence is taken and a written decision is issued. The Director of Community Development’s inquiry shall not include consideration of the message content of the sign, and shall be restricted to the physical method of presentation (i.e. lighting) of the message.

b. Other temporary signs for special events, such as garage sales, wedding receptions, etc., (on-site or off-site) on display on the day of the advertised event only, sunrise until event closes, but not later than sunset; maximum area per sign: four (4) square feet; maximum display area of all signs: eight (8) square feet; total number of signs : four (4).

c. Temporary on-site signs as permitted by California Civil Code 713, subject to: maximum number: one (1) per parcel; maximum display face area per sign: three (3) square feet; illumination: not allowed; physical type: attached or freestanding; display time: when the subject property is on the market and up to ten (10) calendar days thereafter.

(3) Pre-election period. During the time period that begins forty-five (45) days before and ends five (5) days after a special, general, or primary election, the total display area for non-commercial messages on temporary structures may be increased to sixteen (16) square feet. Such signs may be displayed only with the consent of the owner or legal occupant, may not project above the roofline of any building on the same parcel, and may be posted on walls or fences or windows, but not on trees or other plants. Illumination is prohibited.

(4) Flags, pursuant to Section 16A.810, are not included within the limits of this subsection. Flags are subject to: number of freestanding poles per parcel: one (1); maximum height of freestanding flag pole: twenty-four (24) feet; height of the flag: no more than one-fourth (1/4) the height of the pole; number of flags per free standing pole: not limited; total display area of all flags (measured one side only): sixty (60) square feet; image types: no commercial images on residential uses. Illumination is prohibited.

(5) Neighborhood signs. Near any major street entrance to a neighborhood or housing development, the developer or the homeowners' association may install a sign, subject to: maximum height, five (5) feet; maximum length, six (6) feet; maximum area of display face, twelve (12) square feet; illumination, not permitted; copy, permanent image only with no changeable or changing images and no off-site commercial messages.

(c) Multi Family Residential - Units. On legal, attached, multiple family residential uses, at all times and in all zones, each individual dwelling unit may display signs, subject to:

(1) Number of sign faces: not limited; maximum size of any one sign face: eight (8) square feet; illumination: not allowed; mounting methods: wall, window, door, fence; freestanding signs are not allowed;

(2) Acceptable message types: non-commercial; nameplate, garage-sale signs, and signs described in Civil Code 713 (temporary real estate signs), as follows:

a. Nameplates (on-site only, which may include street address) may not be taller than eighteen (18) inches;

b. Other temporary signs for special events, such as garage sales, wedding receptions, etc., (on-site or off-site) on display on the day of the advertised event only, sunrise until event closes, but not later

than sunset; maximum size per sign: four (4) square feet; maximum display area of all signs: eight (8) square feet; total number of signs : four (4).

c. Temporary on-site signs as permitted by California Civil Code 713, subject to: maximum number: one (1) per parcel; maximum display face area per sign: three (3) square feet; illumination: not allowed; physical type: attached or freestanding; display time: when the subject property is on the market and up to ten (10) calendar days thereafter.

(3) Pre-election period. During the time period that begins forty-five (45) days before and ends five (5) days after a special, general, or primary election, the total display area for non-commercial messages on temporary structures may be increased to sixteen (16) square feet. Such signs may be displayed only with the consent of the owner or legal occupant, may not project above the roofline of any building on the same parcel, and may be posted on walls or fences or windows, but not on trees or other plants. Illumination is prohibited.

(4) Flags, pursuant to Section 16A-810, are not included within the limits of this subsection. Flags are subject to: number of flags per dwelling unit: not limited; total display area of all flags (measured one side only): sixty (60) square feet; image types: no commercial images on flags on residential uses. Illumination is prohibited; no freestanding flag poles allowed.

(5) Neighborhood signs. Near any major street entrance to a neighborhood or housing development, the developer or the homeowners' association may install a sign, subject to: maximum height, five (5) feet; maximum length, six (6) feet; maximum area of display face, twelve (12) square feet; illumination, not permitted; copy, permanent image only with no changeable or changing images and no off-site commercial messages.

16A.715 *Signs on the Public Right of Way and Signs on Town Property.*

Signs on the public right of way and on Town Property are regulated by Town Council Resolution No. 03-2009, or the most current successor thereto.

16A.720 *Signs on Non-Residential Uses.*

Signs located on non-residential uses shall be permitted sign area based on the linear distance in feet of establishment frontage (as defined in Section 16A.305), as follows:

(a) The allowable sign area for any establishment shall be one (1) square foot of sign area for each four (4) linear feet of establishment frontage. Additional (e.g., second and third) floor uses, if different uses than ground floor uses, shall have a fifty percent (50%) establishment frontage allowances to ground floor uses.

(b) For establishments or uses with less than twenty (20) linear feet of establishment frontage, a sign area allotment of five (5) square feet shall be allowed without the granting of an Exception.

(c) For a parcel with more than one (1) establishment frontage, or where an establishment is contained in more than one (1) building, each establishment frontage shall be considered and calculated separately in determining allowable sign area.

Transfer of sign area from one establishment frontage to another where an establishment has more than one (1) establishment frontage may be allowed with the granting of a Minor Exception.

(d) A maximum of two (2) permanent signs shall be permitted per frontage for each establishment except as follows:

(1) There shall be no more than one (1) freestanding sign per lot or parcel, except that lots or parcels greater than one acre in area may have up to three (3) freestanding signs.

(2) There shall be no more than one (1) projecting sign per establishment.

(e) A Shopping Center may erect and display an additional sign listing tenants within the center, subject to: maximum area: eighty (80) square feet; location: may be freestanding.

(f) A Multiple-tenant building may display an additional sign listing tenants in the building, subject to: maximum area: twenty-five (25) square feet; location: may be freestanding.

16A.725 Other Non-Residential Use Signs.

(a) On non-residential uses, temporary and incidental signs may be erected, maintained and displayed according to this section. Unless otherwise specified, the signs described in this section may be displayed in addition to those described in Section 16A.720, and are not subject to a permit.

(b) Non-Commercial Messages. In addition to signs authorized or exempted by other sections, and in addition to those signs allowed under the message substitution provision, all legal non-residential uses may erect, maintain and display signs exclusively used for non-commercial messages, as described in this section. If the mounting device qualifies as a “structure” under the Building Code, then all relevant requirements of that and other safety codes must be satisfied. Total number of such signs is not limited, but the total sign area is limited to four (4) square feet at all times.

(c) Pre-election period. During the time period that begins forty-five (45) days before and ends five (5) days after a special, general, or primary election, the total display area for non-commercial messages on temporary structures may be increased to sixteen (16) square feet, with no individual sign to exceed eight (8) square feet. Such signs may be displayed only with the consent of the owner or legal occupant, may not project above the roofline of any building on the same parcel, and may be posted on walls or fences or windows, but not on trees or other plants.

(d) Temporary on-site signs as permitted by California Civil Code 713, subject to: maximum number: two (2) per parcel; maximum display face area: six (6) square feet per sign; display time: when the subject property is on the market, and up to ten (10) days thereafter.

(e) Flags. Non-residential uses may display flags with non-commercial images or on-site commercial images, subject to: Maximum number of poles per parcel: one (1); maximum height of any freestanding pole: twenty-four (24) feet; maximum number of flags: three (3); maximum size of any one flag: twenty (20) square feet; total area (measured one side) of all flags on a given parcel or use: sixty (60) square feet; mounting: directly or on shafts attached to a wall, door, window or fence, or on a

freestanding pole. Flags displaying commercial messages shall be counted toward sign number, type and area; shall require a sign permit; and shall be subject to all rules and regulations set forth in this Chapter.

Article VIII Temporary Signs, Prohibited Signs, Exempt Signs and Nonconforming Signs

16A.800 Temporary Signs.

The following signs are considered temporary and may be posted for a limited period of time without first obtaining a Sign permit in accordance with the provisions of this Chapter. If the message is commercial in nature, then the sign must be on-site.

(a) *Grand Opening and Other Special Event Signs.* Grand opening and other special event signs of a short-term and temporary nature may be erected without a Sign permit subject to the following:

(1) No more than two (2) such signs, not exceeding twelve (12) square feet in total or combined sign area, may be displayed per establishment at one time;

(2) No such sign or signs may be displayed for a period exceeding thirty (30) consecutive or non-consecutive days in any calendar year, after which time the signs shall be promptly and completely removed. Thus, by means of example, if an establishment displays a sale sign or signs without a permit for a period of twenty-one (21) days beginning on January 1, and subsequently, on February 1, begins displaying a different sale sign or signs without a permit, the new sign or signs must be removed by February 10, and no additional signs may be displayed in reliance on this section during that calendar year without being in violation of this section.

(3) Examples of special event signs include, but are not limited to, signs displaying a special sale, grand opening, business closing, or a fund drive for a non-profit establishment.

(b) *Temporary construction signs.* Maximum of three (3) in number per site, and no more than six (6) square feet per sign for residential construction and twelve (12) square feet per sign for non-residential construction. No illumination is permitted. Such signs shall be permitted through the duration of construction and shall be removed no later than ten (10) days following completion of construction.

(c) *Temporary use signs.* Signs for temporary uses, including but not limited to outdoor, temporary or seasonal sales lots, such as Christmas tree or pumpkin sales lots, may be erected for a period not to exceed thirty (30) days. Temporary use signs shall not exceed twenty-five (25) square feet on any parcel.

(d) *Temporary off-site signs.* Maximum of three (3) in number per parcel and no more than three (3) square feet of face area per sign. No illumination is permitted. Display times allowed: between 12:30 p.m. and 5:30 p.m. on Sundays and on one additional day, as the Town Council may establish by Resolution. Location: (i) private property not located in the Downtown with the permission of the property owner;

or (ii) on public property not located in the Downtown as allowed by Town Council Resolution No. 03-2009, or the most current successor thereto.

16A.805 *Prohibited Signs.*

A prohibited sign is a sign that is not allowable under the provisions of this Chapter, with or without a permit. The Town may require the removal or abatement of a prohibited sign. Failure of a property owner and/or lessee to remove or abate a prohibited sign within fifteen (15) days of the property owner and/or lessee's receipt of written notification (or refusal to accept delivery of such) from the Town ordering the removal or abatement, shall be deemed a violation of this Chapter enforceable as provided in Section 16A.900 *et seq.* and Chapter 31 of the Tiburon Municipal Code, or Business and Professions Code section 5499 *et seq.*, or any other method provided by law. The following types of signs and devices are prohibited:

(a) *Portable signs*, as defined in Section 16A.305, including "pedestal", "A-frame", "H- frame" and "I-frame" signs, except where allowed pursuant to Section 16A-800(d) or Section 16A-710.

(b) *Abandoned signs*. Signs that have been abandoned for a period of ninety (90) days or more following the closing of an establishment on the site where the sign is located; or signs that pertain to a time, event, or purpose that no longer exists.

(c) *Animated and moving signs, as defined herein*. Animated and moving signs include, but are not limited to:

(1) Electronic message display, blinking, flashing, change in light intensity, or moving signs.

(2) Wind blown devices such as balloons, inflatable objects, pennants, ribbons, streamers.

(3) Signs producing sound, odor, smoke, fumes steam, or other substances.

(d) *Billboards*, as defined in section 16A.305 and as set forth in Section 16A.230.

(e) *Dilapidated signs*. Where elements of the sign surface, structural support, frame members, panels or other sign elements are clearly dilapidated, have cause to compromise the ability of the sign to identify an establishment, or are in a condition to cause a hazard or affect public safety.

(f) *Electronic signs*, as defined herein.

(g) *Imitative of legally-authorized signs*. Signs (other than those used for traffic direction) that contain or are an imitation of a legally-authorized traffic sign or signal, or contain the words stop, go, slow, caution, danger, warning or similar words; or signs that imitate or may be construed as other public notices, such as a zoning violation, building permit, business license, etc.

(h) *Internally-illuminated signs*, as defined herein.

(i) *Natural despoliation signs, as defined herein*.

(i) *Roof signs*, except when qualifying as a mansard sign on a mansard roof under the provisions of this Chapter.

(j) *Signs likely to cause traffic confusion or traffic hazard*. Signs or lighting that is of a size, location, movement, coloring, or manner of illumination that it:

- (1) Is likely to be confused with or construed as a traffic control device.
- (2) Will hide from view any traffic or street sign or signal.
- (3) Is not effectively shielded to prevent glare or where the lighting is of an intensity that causes glare or impairs the vision of a driver or pedestrian.
- (k) *Signs surfaced with or made of florescent paint or material.*

16A.810 Exempt Signs.

The Town has a compelling public health, safety and welfare interest in the clear, accurate and effective identification of governmental and private buildings, public streets and public facilities and amenities, the safe and efficient control of traffic and parking within the Town, and the expeditious notification to the public of information affecting emergency and essential public services. Therefore, unless otherwise specified, the following signs are exempt from the Sign permit requirement and shall not count toward sign number or sign area limits, provided that they conform to the stated rules of this Chapter and all other laws, rules and regulations:

(a) *Building and street address signs.* Each sign shall not exceed three (3) square feet in area and one (1) per building for each street frontage. Such signs must comply with the Town’s adopted Building Code requirements for address markings.

(b) *Consumer Information Signs.* Signs displaying consumer information are not included in the calculation of the allowable sign area or number, if such signs are on-site and do not individually exceed one (1) square foot and, in aggregate, do not exceed five (5) square feet in area per establishment. Such signs shall not be illuminated and shall not contain reflective paint or material. Examples of such signs include, but are not limited to, signs displaying hours of operation, nameplates, association affiliations, credit cards that are accepted, and “now hiring”, “hours of operation”, “help wanted”, “no smoking”, “open”, and “closed” signs.

(c) *Directional or informational signs of a non-commercial nature.* Private directional or informational signs placed on-site, which are intended to provide public safety or convenience, not exceeding four (4) square feet in area per sign and not to exceed eight (8) square feet in aggregate sign area per establishment. Such signs shall not be illuminated and shall not contain reflective paint or material. Examples of such signs include, but are not limited to, parking lot directional signs, location of restrooms, telephones, “parking in rear,” “restricted area”, “valet parking”, and “employees only”.

(d) *Flags.* Flags displaying non-commercial images, subject to rules and limitations set forth in Sections 16A.710, 16A-720 and 16A.725).

(e) *Legally-authorized Signs.* Signs displaying information that is authorized or required by law or regulation other than set forth in this Chapter may be displayed according to said authorizing law or regulation. Such signs include, but are not limited to signs for traffic control, fire and police signs and other regulatory purposes, signs for public information and safety, street signs, fueling station price signs, public notices, emblems and other forms of official identification.

(f) *Restaurant Menus.* For non-residential uses serving food on the premises to the public, a menu may be displayed on private property; the menu must be identical in size and all other respects to those made available to diners. Lighting of the menu may not cause unreasonable glare to persons of ordinary sensibility.

(g) *Nonstructural repairs to and maintenance of conforming signs.* Repairs to, or maintenance of, a conforming sign, when such changes are non-structural. Repair and/or maintenance does not include a change in colors, materials, or illumination, which modifications shall require the approval of a Sign permit under Section 16A.500 *et seq.* of this Chapter or other applicable laws, rules, or regulations.

16A.815 *Nonconforming Signs, in General.*

(a) A nonconforming sign is a sign that was legally established and maintained in compliance with the provisions and requirements of all applicable laws in effect at the time of the original installation but does not now comply with the provisions of this Chapter.

(b) Changes to sign materials or colors are allowable, subject to a Sign permit, provided that any such changes comply with the provisions of this Chapter. Changes to sign text only do not require a Sign permit, provided that the sign area is not thereby increased nor any other physical factor altered to increase the nonconformity of the sign.

(c) The following additional provisions shall apply to nonconforming signs:

(1) Any structural modification to, or structural alteration of, any nonconforming sign or elements thereof, or movement or relocation of a non-conforming sign, shall require immediate compliance with this Chapter.

(2) A nonconforming sign may not be changed to another nonconforming sign or structurally modified or altered to extend its useful life.

(3) Use of a nonconforming sign may not be re-established or continued after a use or establishment, with which the sign was associated, is discontinued for more than ninety (90) days, i.e., is an abandoned sign.

(4) Signs located on, and materially associated with, the historic character of any building located on the Local Historic Inventory of Buildings Located in Downtown Tiburon, adopted by Resolution of the Town Council, may be allowed to be re-constructed or replaced despite their non-conforming status, with the granting of a Major Exception.

(5) Any nonconforming sign shall be removed or made to conform to the provisions of this Chapter if the sign has been more than fifty (50) percent damaged in terms of replacement value, or is destroyed, except as set forth in subsection (4) above.

16A.820 *Nonconforming Portable Signs*

(a) Notwithstanding any other provision of this chapter, existing, lawfully-established, nonconforming portable signs with an expected useful life of less than fifteen (15) years must be removed as set forth in this section.

(1) Unless otherwise established by the permit holder, portable signs are presumed to have an expected useful life of five (5) years or less and must be removed within five (5) years of March 20, 2009.

(2) If a permit holder demonstrates that a portable sign has an expected useful life of more than five (5) years, the Director of Community Development, or his designee, shall grant additional time for the sign to remain in place for the remainder of its useful life, not to exceed a total of fifteen (15) years from March 20, 2009.

(b) The Town Council may adopt a resolution establishing a program for the elimination of signs with an expected useful life of fifteen (15) years or more in compliance with Division 3, Chapter 2.5 of the California Business and Professions Code, Section 5490 *et seq.* or any successor statutes.

(1) Prior to adopting the resolution, Town staff will prepare a report that inventories and identifies any sign that would be affected by the program. The Council will consider this report at a public hearing on the resolution.

(2) The resolution adopting the program shall include a finding that there is a need for the regulations set forth therein.

(c) Nothing in this section shall preclude the Town and a permit holder from mutually agreeing to remove a sign with an expected useful life of fifteen (15) years or more upon the Town's payment of reasonable compensation for the value of the sign.

Article IX Violations and Enforcement

16A.900 *Violations Unlawful.*

It is unlawful for any person to violate any of the provisions of this Chapter or to violate any of the terms or conditions of a Sign permit or Sign Program issued pursuant to this Chapter.

16A.905 *Violations an Infraction.*

Any violation of the provisions of this Chapter, or violation of any conditions of a Sign Permit or Sign Program approval, shall be deemed an infraction and shall be subject to penalties pursuant to Section 36900 of the Government Code, as amended, and Chapter 31 of the Tiburon Municipal Code, or otherwise as provided by state law.

16A.910 *Nuisance and Abatement.*

Any violation of the provisions of this Chapter is hereby declared a public nuisance and shall be subject to summary abatement as provided by law, including Business and Professions Code Sections 5499.1 to 5499.16, Government Code sections 38773.1 and 38773.5, and Chapter 31 of the Tiburon Municipal Code.

(a) This section does not exclude any other lawful method of remedy available to the Town.

(b) Each and every day that any violation of this Chapter continues shall be regarded as a new and separate offense or violation.

(c) The remedies provided in this section shall be cumulative and not exclusive.

(d) Any Sign Permit or Sign Program approved by the Town may be subject to review and modification or revocation for cause under due process of law.

(e) Signs that present an immediate and significant threat to public safety may be impounded immediately by any official of the Town to protect the public safety and welfare. Impounded signs will be held for thirty (30) days. The Town will make reasonable attempts to contact the sign owner and provide the owner with ten (10) days' notice to reclaim the sign upon payment of fines. Impounded signs, which remain

unclaimed after thirty (30) days, may be disposed of in any manner whatsoever at the discretion of the Town.

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, and any section, subsection, sentence, clause or phrase herein, irrespective of the fact that any one 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, held on the 4th day of February, 2009, and was adopted at a regular meeting of the Town Council of the Town of Tiburon, held on the 18th day of February, 2009, which were noticed pursuant to applicable sections of the California Government Code, by the following vote:

AYES:	COUNCILMEMBERS:	Berger, Collins, Fredericks, Gram
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Slavitz

ALICE FREDERICKS, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

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