

RESOLUTION NO. 03-2009

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
APPROVING A POLICY FOR SIGNS ON TOWN PROPERTY
AND FOR SIGNS ON THE PUBLIC RIGHT-OF-WAY**

Section I. Findings.

WHEREAS, the Town Council finds that the current Town policy regarding signs on Town Property and the public right of way is in need of updating; and

WHEREAS, the Town Council has adopted a comprehensive update of its sign regulations as set forth in Tiburon Municipal Code Chapter 16A; and

WHEREAS, the Town Council held public hearings on September 17, 2008 and on February 4, 2009 to consider a Resolution Approving a Policy for Signs on Town Property and signs on the public right-of-way, at which it considered any and all comments from interested persons; and

WHEREAS, the Town Council finds that the regulation of signs of its proprietary land holdings and on the public right of way are necessary for the public health, safety, welfare and convenience; and

WHEREAS, the Town Council finds that adoption of the Policy 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

WHEREAS, the Town Council finds that the Policy attached hereto is consistent with the goals and policies of the Tiburon General Plan and will further its objectives.

Section II. Adoption.

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Tiburon hereby adopts a policy for signs on Town Property and for signs on the Public Right-of-Way, as set forth on the attached **Exhibit "A"**, which is hereby incorporated and made a part of this Resolution.

Section III. Effective Date.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Resolution shall become effective on March 20, 2009, concurrent with the effective date of the new sign ordinance.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon on February 18, 2009 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

EXHIBIT “A”

POLICY FOR SIGNS ON TOWN PROPERTY AND SIGNS ON THE PUBLIC RIGHT-OF-WAY

Section I. Authority, Purpose, Scope and Intent

A. Authority

This Policy is adopted pursuant to the Town’s general and police powers, property rights, Government Code Sections 65850(b), 38774, 38775, Business and Professions Code Sections 5200 et seq., and Penal Code Section 556 et seq.

B. Capacity

In adopting this Policy, the Town Council acts in its proprietary capacity as to Town Property, as defined herein, and pursuant to its police powers as to portions of the public right of way in which the fee title is not held by the Town.

C. Scope

This Policy states the intent, rules, regulations, and procedures regarding private party placement of signs on Town Property, as defined herein.

D. Intent

The purposes and intents of this Policy include, but are not limited to:

- (1) To preserve and enhance the aesthetic appearance and natural beauty of the Town;
- (2) To serve the public interest in safety, both pedestrian and traffic;
- (3) To safeguard and protect the public health, safety, and welfare through appropriate prohibitions, regulations, and controls on the design, location, and maintenance of signs on Town Property;
- (4) To enhance the visual attractiveness of the Town, for residents and visitors;
- (5) To accommodate the need for orderly expression in traditional public forum areas, such as streets, parks and sidewalks;
- (6) To advance the goals, policies and programs of the General Plan; and
- (7) To allow private parties to place signs on certain areas of Town Property, subject to the rules and policies stated herein.

Section II. Basic Policies

A. Compliance Required

As to private parties and governmental units other than the Town, only signs authorized by this Policy may be built, displayed, erected or maintained on Town Property, as defined herein. Authorization shall take the form of a permit requirement or an exemption from the permit requirement as explicitly stated in this Policy.

B. Enforcement

The Town Manager is authorized and directed to enforce and administer the provisions of this Policy.

C. Interpretations

Interpretations of this Policy shall be made initially by the Town Manager, whose decision may be appealed to the Town Council under the appeal procedures set forth in Section 16A.510(c)(3) of the Sign Ordinance (Chapter 16A of the Tiburon Municipal Code).

D. Intent as to Public Forum

The Town declares its intent that no Town Property shall function as a designated public forum, unless some specific portion of Town Property is designated herein as a public forum of one particular type; in such case, the declaration as to public forum type shall apply strictly and only to the specified area and the specified time period.

Section III. Definitions

A. Partial Incorporation of Sign Ordinance Definitions

All definitions from the Sign Ordinance (Chapter 16A of the Tiburon Municipal Code) are incorporated, unless they are limited or modified by this Policy.

B. Special Definitions

The following definitions apply to this Policy.

Business days. Days during which Tiburon Town Hall is open for public business.

Blackie's Pasture Sign. A sign made of material similar to plywood, masonite, or other like substance and located on a structure near the southeast corner of the intersection of Tiburon Boulevard with Blackie's Pasture Road, to which signs have traditionally been attached.

Blackfield Drive Sign. A sign made of material similar to plywood, masonite, or other like substance and located on a structure at the northeast corner of the intersection of Tiburon Boulevard with Blackfield Drive, to which signs have traditionally been attached.

Director of Public Works. The Town of Tiburon Director of Public Works, or his or her designee.

Hand-held Sign. A sign that is held by a natural person or a live animal, not including insignia on apparel or aspects of personal appearance.

Main Street Banner. A sign made of material similar to heavy canvas or reinforced plastic, attached to poles or buildings, and suspended over Main Street from time to time.

Merchants Association. An organization representing merchants and related businesses to promote local businesses.

Tiburon Peninsula. Any incorporated or unincorporated territory located on the greater Tiburon Peninsula, including but not limited to the Town of Tiburon, the City of Belvedere, the Paradise Drive unincorporated area, and the Strawberry/EagleRock/Bay Vista unincorporated area.

Town Manager. The Town Manager of the Town of Tiburon, or his or her designee.

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.

Traditional Public Forum. The surfaces of Town-owned streets, Town-owned parks, sidewalks that are connected to the Town's main pedestrian circulation system, and the pedestrian area immediately surrounding Town Hall (not including the interior thereof). In consultation with the Town Attorney, the Town Manager shall interpret this phrase for compliance with court decisions.

Section IV. Traditional Public Forum Areas

A. Applicability

This Section applies only in Traditional Public Forum areas as defined in Section III.

B. Display Right

In an area qualifying as a traditional public forum, private persons may display signs expressing non-commercial messages that are within the protection of the First Amendment, without a permit, but subject to:

- (1) The signs must be personally held by a person, or personally attended by one or more persons.
- (2) The signs may be displayed only during the time period of sunrise to 10 p.m., except on occasions when the Town Council, Planning Commission, or other reviewing authority of the Town is holding a public hearing or meeting; on such occasions, the

display period is extended to thirty (30) minutes after such meeting is officially adjourned.

- (3) The maximum aggregate area of all signs held by a single person is six (6) square feet, measured one side only. For purposes of this rule, apparel and other aspects of personal appearance do not count towards the maximum aggregate sign area.
- (4) The maximum area of any one sign that is personally attended by two (2) or more persons is forty (40) square feet, measured one side only.
- (5) The sign must have no more than two display faces and may not be illuminated, inflatable or air-activated.
- (6) In order to serve the Town's interests in traffic flow and safety, persons displaying signs pursuant to this Policy may not stand in any vehicular traffic lane when a roadway is open for use by vehicles, and persons displaying signs on public sidewalks must give at least five (5) feet width clearance for pedestrians to pass by. Signs and persons holding signs may not block the free and clear vision of drivers, bicyclists and pedestrians.
- (7) So long as the foregoing rules are followed, no permit is required for display of signs authorized by this Section.

C. Prohibited Sign Display

Other than as stated in subsection IV. B. above or subsections VII. B. or VIII below, no private party signs may be mounted, erected, maintained, or displayed on Town Property.

Section V. Official Signs

The following signs may be erected and displayed on Town Property, subject to the rules set herein:

- (a) Traffic control and traffic directional signs erected or authorized by the Town or another governmental unit;
- (b) Official notices required or authorized by law;
- (c) Signs placed by the Town in furtherance of its governmental functions.

No permit is required for the signs authorized by this Section V.

Section VI. Blackie's Pasture Sign, Blackfield Drive Sign, and Main Street Banner

A. Intent as to Forum

In adopting this Section, the Town Council does not intend to open or designate a forum for expression on controversial topics of public debate, but instead intends to allow private parties to display messages on the Blackie's Pasture Sign, Blackfield Drive Sign, and/or Main Street Banner to announce special events that are Tiburon Peninsula-based in nature.

B. Authorized Parties

The following parties may use the Blackie's Pasture Sign, Blackfield Drive Sign, and/or Main Street Banner: (i) governmental agencies, including without limitation, the Town, City of Belvedere, and the Belvedere-Tiburon Library Agency; (ii) Tiburon peninsula accredited or licensed schools (pre- kindergarten through 12th grade, both public and private, which offer instruction that satisfies in whole or in part the mandatory education requirements of state

law); (iii) merchants associations located on the Tiburon peninsula; (iv) non-profit organizations located on the Tiburon Peninsula with tax exempt status under Internal Revenue Code Section 501(c)(6); and (v) other non-profit organizations located on the Tiburon peninsula with tax exempt status under Internal Revenue Code Section 501(c)(3) organized to promote the health and welfare of the Tiburon peninsula community.

C. Qualifying Events; Copy Rules

This Section authorizes private party use of the Blackie's Pasture Sign, the Blackfield Drive Sign, and the Main Street Banner for special events that meet all of the following criteria:

- (i) The event's sponsor is an authorized party under subsection B of this section;
- (ii) The event must be located on the Tiburon peninsula only;
- (iii) If the sponsor is not a governmental agency, the public must be invited to the event on the same basis as the members of the sponsoring organization.
- (iv) The event must be suitable for all ages.

The copy on these signs may include only the name of the event (including the sponsoring organization(s), time, and location of the event.

D. Permit Required

A Blackie's Pasture Sign, Blackfield Drive Sign, and Main Street Banner application form shall be available at Town Hall, and such form shall address required submittals, cost recovery fees, and signatures. Requested dates for use of the signs must be explicit. Complete applications, including a rendering of the sign, must be received at least thirty (30) days in advance of the requested date for initial posting. The Town will issue a decision on the request no later than ten (10) business days after receipt of the application. The Town will approve applications for qualified events as space allows on a "first come-first serve" basis. In no event shall any sign be permitted to be posted for more than fourteen (14) consecutive days. Only Town employees are authorized to install and remove a sign, but are authorized to delegate that authority in their reasonable discretion.

Both the Town Manager and the Director of Public Works, or their respective designees, must sign a permit for a new (i.e., previously unapproved) sign. After the Town has approved a sign, only the Director of Public Works or his designee need sign subsequent permits for the same event by the same sponsor, provided that the only substantive differences from the previously approved sign are time and place related.

E. Safety Rules

Such Blackie's Pasture Sign, Blackfield Drive Sign, and Main Street Banner shall be subject to safety rules regarding construction methods and materials, and mounting methods, as established by the Building Official.

Section VII. Portable Signs on Town Property and Public Right-of-Way

- A. A-Frame signs, H-Frame signs, I-Frame signs, and similar portable signs displayed by parties other than the Town, are not allowed on Town Property or Public Right-of-Way except as expressly permitted under Subsection B of this Section.

B. Portable signs are allowed between the hours of 12:30 p.m. and 5:30 p.m. on Sundays and between the hours of 10:00 a.m. and 4:00 p.m. on Wednesdays, provided that they meet the following criteria:

- (1) No sign may be placed so as to obstruct pedestrians or vehicles or render any sidewalk or other pedestrian pathway impassible to persons using wheelchairs or walkers. For purposes of this Section, a sidewalk or pathway is presumed to be impassible to persons using wheelchairs or walkers if the sign causes the sidewalk or pathway to be less wide than required by applicable state and federal accessibility laws.
- (2) No sign may be placed so as to cause damage or create safety hazards.
- (3) Any sign placed on Town Property or on Public Right-of-Way pursuant to this section must comply with Section 16A-800(d) of the Sign Ordinance (Chapter 16A of the Tiburon Municipal Code); including as follows:
 - i. Maximum of three (3) signs per parcel and no more than three (3) square feet of sign area per sign.
 - ii. No illumination (other than ambient light) is permitted.

Section VIII. Neighborhood Signs

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. An encroachment permit is required following issuance of a sign permit by the Town.

Section IX. Encroachments

A. Encroachment Policy

With the exception of those signs described in Section VI of this Policy, signs that are mounted on private property but that project over the public right of way, or otherwise extend into or over Town Property, are authorized subject to:

- (1) The sign must satisfy all requirements of the Sign Ordinance;
- (2) The sign may not project more than six (6) feet from a building face nor project to a distance nearer than two (2) feet from the street curb;
- (3) The sign must be mounted so as to provide a ground clearance of at least eight (8) vertical feet;
- (4) The message substitution policy of the Sign Ordinance (Section 16A-210 of Municipal Code Chapter 16A) shall apply to signs authorized by this Section.

Section X. Town Expression of its Own Messages

Nothing in this Policy limits in any way the Town's ability to use Town property for the expression of its own messages.

Section XI. Cross-Reference from Sign Ordinance

The Town Council of the Town of Tiburon intends for this Resolution to satisfy the references in the Sign Ordinance, namely Sections 16A.115 (b) and 16A.715, which state that signs on the public right of way and signs on Town Property are regulated by Resolution of the Town Council.

Section XII. Enforcement

Unless no permit is required pursuant to this Policy, any unauthorized, unapproved, non-exempt sign on Town Property is subject to immediate removal and impoundment without notice. 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 recovery of Town's costs. Impounded signs, which remain unclaimed after thirty (30) days, may be disposed of in any manner whatsoever at the discretion of the Town. The Town may use the procedure set forth in Business and Professions Code Sections 5499.1 through 5499.16 as a guide.