



*Town of Tiburon
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TREE ORDINANCE

TIBURON MUNICIPAL CODE

CHAPTER 15A: TREES

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Section 15A-1 Purpose and Policy.

The Tiburon General Plan recognizes the importance of trees to the character and beauty of the Town, and recognizes the role that trees have in advancing the public health, safety and welfare. The Town has therefore determined that reasonable regulation of the removal, alteration, and planting of certain trees is necessary to promote the public health, safety and general welfare of the community. Regulation of trees is based upon the following general policies:

(a) Policy #1. The Town recognizes the scenic importance, shade-creating, and privacy-creating benefits of trees to the community. The Town also recognizes that trees can provide soil stability, noise buffering, and wind protection benefits, and can help prevent erosion and debris flow landslides on the hilly terrain which characterizes most of Tiburon. The Town of Tiburon greatly values its trees for their ecological importance, visual enhancement of the community, and their contribution to residential privacy and quietness.

(b) Policy #2. The Town recognizes the special significance of “protected trees” (heritage trees, oak trees, and dedicated trees), and values the contribution which such trees make to the beauty and quality of life of Tiburon. Any tree (including an “undesirable tree”) which has attained the size of trunk to qualify as a “heritage tree,” as defined in section 15A-2 will be provided the permit protection afforded by this chapter.

(c) Policy #3. The Town recognizes that certain types of trees, because of potential breakage and fire hazards, or their potential for creating view blockage due to rapid growth and tall height at maturity, should be prohibited from being planted without special permission. These trees are referred to as “undesirable trees.”

(d) Policy #4. The Town recognizes that because of the known benefits of trees, undeveloped properties and properties capable of further subdivision should be protected from unregulated removal of trees prior to the approval of development plans. Trees on such properties should be preserved so that they may be considered for incorporation into development plans.

(e) Policy #5. The Town recognizes that residents in single-family and two-family zones should have the freedom to determine the nature of their private landscaped surroundings. In such zones, only the removal or alteration of “protected trees” and the planting of “undesirable trees” shall require permits.

(f) Policy #6. The Town recognizes that properties located in zones other than single-family and two-family residential zones often have special landscaping circumstances, including commonly-owned or shared areas, and these special circumstances have the potential to affect significantly larger numbers of persons and properties if unregulated. Because of the potential for special landscaping circumstances, such properties require careful regulation. Therefore, all trees on such properties should be subject to reasonable regulation through the permit process. (Ord. No. 359 N.S., § 4 (part); Ord. No. 419 N.S., § 2(A), (B))

15A-2 Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings ascribed to them:

“Alteration” means any action which would significantly damage the health or appearance of any tree, whether by:

- (1) Cutting of its trunk or branches;
- (2) Filling or surfacing or changing the drainage of the soil within the drip-line of the tree;
or
- (3) Performing other damaging acts.

This definition does not include routine pruning and shaping, removal of dead wood, or other maintenance of a tree (including a protected tree) to improve its health, facilitate its growth or maintain its configuration to protect an existing view.

“Design Review Board” means the Tiburon Design Review Board or its successor.

“Person” means any individual, corporation, partnership, firm or other legal entity, including the Town.

“Planning Director” means the Planning Director of the Town or his designee.

“Planting” means the intentional installation or placement of a tree.

“Property” means any land or area within the corporate limits of the Town of Tiburon which is subject to its regulatory authority.

“Protected Tree” means any:

- (1) Heritage Tree, meaning any tree which has a trunk with a circumference exceeding sixty inches, measured twenty-four inches above the ground level.
- (2) Oak Tree, including coast live oak, blue oak, California black oak, interior live oak, canyon live oak, Engelmann oak or valley oak tree.
- (3) Dedicated Tree, meaning a tree of special significance so designated by resolution of the Town Council.

“Removal” means the elimination, movement, or taking away of any tree from its present location.

“Shrub” means a woody perennial plant smaller than a tree, usually having permanent stems branching from or near the ground.

“Single-Family Residential Zone” means any property located in a zone for which the principal use is detached single-family residential. Typically, this means the R-1, R-1-BA, RO or RPD zone as shown on the Tiburon zoning map.

“Town Property” means any property owned in fee by the Town of Tiburon, or any easements, rights-of-way or other similar interests of the Town in property.

“Tree” means:

(1) A woody perennial plant that has a trunk circumference of twenty inches measured at twenty-four inches above the ground surface; or

(2) A woody perennial plant at least fifteen feet in height that usually, but not necessarily, has a single trunk.

In applying subsection (1) above, for trees with more than one trunk, the circumference measurement shall be ascertained from a single measurement around the outside perimeter of all trunks and shall not be calculated as the sum total of the circumferences of the individual trunks.

References to “tree” shall include the plural. The Planning Director or his designee shall have reasonable discretion to distinguish between a “tree” and a “shrub” within the confines of the definitions found in this chapter.

“Two-Family Residential Zone” means a property located in a zone for which the principal use is two-family or duplex residential. Typically, this means the R-2 zone as shown on the Tiburon zoning map.

“Undesirable Tree” means a Blue Gum Eucalyptus, Monterey Pine, Monterey Cypress, Coast Redwood, or any other species of tree (regardless of its height or trunk circumference) that generally grows more than three feet per year in height and is capable of reaching a height of over thirty-five feet at maturity. An “undesirable tree” nevertheless constitutes a “protected tree” if it meets the criteria set forth in that definition.

Tree height at maturity and tree growth rate shall be determined using a recent edition of the Sunset Western Garden Book. Trees characterized as having a “fast growth” rate in the Western Garden Book shall be conclusively presumed to grow at least three feet in height per year. Trees characterized as having a “moderate to fast growth” rate in the Western Garden Book shall be conclusively presumed to grow less than three feet in height per year. If the necessary information on height and growth rate is not available in the Western Garden Book, then other information sources may be substituted in the reasonable discretion of the Planning Director.

Applicants may submit additional written information from other published sources that may be used in the Planning Director's reasonable discretion to make necessary determinations for tree height at maturity and tree growth rate.

“Undeveloped Property” means any property which:

(1) Is not improved with a primary building (for example, a dwelling unit or place of

business); or

(2) Is improved with a primary building, but is of sufficient land area that it could be subdivided. Subdivision potential shall be based upon the minimum lot area requirement for the zone in which the property is located. (Refer to Tiburon zoning ordinance for minimum lot areas in each zone). (Ord. No. 359 N.S., § 4 (part); Ord. No. 419 N.S., § 2(C), (D); Ord. No. 461 N.S., § 3)

15A-3 When a Permit is Required.

The planting, removal or alteration of the following trees is regulated by this chapter and shall require a permit:

(a) Protected Tree. Removal or alteration of any “protected tree” on any property is prohibited without the prior issuance of a permit.

(b) Undesirable Tree. Planting of any “undesirable tree” on any property is prohibited without the prior issuance of a permit.

(c) Town Property. Planting, removal or alteration of any tree on “Town property” is prohibited without the prior issuance of a permit, except that in cases of Town action on Town property, only the removal or alteration of a “protected tree” or the planting of an “undesirable tree” shall require a permit.

(d) Undeveloped Property. Removal or alteration of any tree on “undeveloped property,” including property which could be subdivided, is prohibited without the prior issuance of a permit.

(e) Single-Family or Two-Family-Residential Zones. Removal or alteration of any “protected tree” or the planting of any “undesirable tree” is prohibited without the prior issuance of a permit.

(f) All Other Zones. Removal or alteration of any tree located in a zone other than a “single-family residential zone” or a “two-family residential zone” is prohibited without the prior issuance of a permit. (Ord. No. 359 N.S., § 4 (part))

15A-4 Exceptions from Permit Requirement.

(a) A permit shall not be required under this chapter if the planting, alteration or removal of a tree has been authorized by a zoning, subdivision or other valid permit issued by the Town. The burden shall be on the applicant to demonstrate such approval.

(b) If personal injury or property damage is imminently threatened, or the fire marshal declares a tree to be a fire hazard, the chief of police, superintendent of public works, Planning Director, or Town manager may authorize or order the removal or alteration of a tree without compliance with other provisions of this chapter. The removal or alteration carried out in such emergency conditions shall be reported to the Planning Director on the first business day following the work. (Ord. No. 359 N.S., § 4 (part))

15A-5 Application Filing and Procedure.

(a) Any person wishing to plant, remove, or alter a tree regulated by this chapter shall apply in writing to the Planning Director for a permit. Application forms are available in the planning department. The fee for such application shall be established by resolution of the Town Council. Applications filed with the Planning Director shall:

- (1) Identify the property on which the tree is located.
- (2) Provide a perimeter outline of any existing or proposed buildings on the property.
- (3) Specify the location of the tree within reasonable accuracy to facilitate easy identification.
- (4) State the species of the tree, the approximate height of the tree (currently and at eventual maturity), and the circumference of the trunk measured at twenty-four inches above the ground surface.
- (5) Furnish a statement of the reason for the request.
- (6) Provide evidence, in writing, of property owner permission.

(b) The Planning Director may require additional information to secure the purposes of this chapter, including a report by a certified arborist satisfactory to the Town, and/or a tree inventory of the subject property, when reasonably necessary to make a final determination. The cost of any such report or additional information shall be responsibility of the applicant. (Ord. No. 359 N.S., § 4 (part); Ord. No. 419 N.S., § 2(E))

15A-6 Application Review Procedure.

(a) Once the Planning Director determines that the application is complete, he should cause to be mailed "courtesy" notices to all owners of property, as listed on the available county assessment rolls, within three hundred feet of the subject property, and to residents and other parties, including homeowners associations, which in the discretion of the director, may be significantly affected. The notice should briefly describe the proposed work to be performed. Courtesy notices should be mailed at least ten days prior to a decision by the director.

(b) On applications for planting an undesirable tree, the Planning Director shall within fifteen days inspect the site and shall consider the following factors in deciding whether, in the exercise of his discretion, to issue or deny the permit:

- (1) The suitability of the location for the tree requested to be planted;
- (2) The potential for unreasonable or undesirable view blockage by the tree at maturity.

(c) On applications for the alteration or removal of trees, the Planning Director shall within fifteen days inspect the trees and the site. The director shall then consider the following factors in deciding whether, in the exercise of his discretion, to issue or deny the permit:

- (1) The condition of the tree with respect to disease, hazard, proximity to existing or proposed structures or interference with utility services.

- (2) The necessity of removal or alteration of the tree in order to develop the property.
- (3) The topography of the land and the effect of tree removal or alteration on protection from wind, soil erosion or increased flow of surface water.
- (4) The number of trees in the neighborhood, and the effect of removal or alteration of the tree on the character of the neighborhood, including privacy impacts on neighboring properties.
- (5) Good forestry practices; i.e. the number of healthy trees that a given property will support.
- (6) The historical significance and age of the tree. (Ord. No. 359 N.S., § 4 (part); Ord. No. 419 N.S., § 2(F))

15A-7 Permit Issuance.

- (a) The Planning Director may issue the permit upon finding that it would be consistent with the purposes, policies and regulations set forth in this chapter. The Planning Director shall have the discretion to refer any application to the Design Review Board for hearing and action, and the board shall have all authority and discretion of the Planning Director, as set forth in this chapter, in acting on applications.
- (b) The Planning Director may attach such conditions to the permit as deemed necessary, in the exercise of his discretion, to accomplish the purposes of this chapter. Such conditions may include, but are not limited to, regulation of planting, cutting, grading, drainage, irrigation, encroachment into drip-line areas, paving and surfacing limitations, maintenance of trees at a maximum height, and erection of protective fencing. Replacement of removed trees, on a basis of up to three to one, may also be required as a condition of approval. Where appropriate, any conditions attached to a permit shall run with the land and apply to permittee's successors in interest. The Planning Director may direct that any permit shall be recorded with the Marin County recorder. (Ord. No. 359 N.S., § 4 (part); Ord. No. 419 N.S., § 2(G))

15A-8 Appeal.

- (a) The decision of the Planning Director may be appealed to the Design Review Board. A written appeal must be filed with the planning department within ten days of the decision.
- (b) No permit granted under the provisions of this chapter shall be effective until the expiration of ten days following the granting of such permit. If an appeal is filed, action under any permit shall be suspended pending the outcome of the appeal.
- (c) The Design Review Board shall hear the appeal within thirty days of its filing. Notice of the time and place of the appeal hearing shall be given to the applicant, appellant and other persons as deemed appropriate by the Planning Director. The Design Review Board may affirm, reverse or modify the decision of the Planning Director. The decision of the board shall be final. (Ord. No. 359 N.S., § 4 (part))

15A-9 Termination of Permit.

Unless a longer time is set forth in the permit, a permit shall be valid for only one hundred eighty days from final approval, and thereafter shall become null and void. For good cause, time extensions may be granted in writing by the Planning Director. (Ord. No. 359 N.S., § 4 (part))

15A-10 Violation--Penalty.

In addition to all other remedies available under this Code or state law, any violation of this chapter shall be subject to abatement as a public nuisance. All costs relating to the enforcement of this chapter shall be borne by and recoverable from the person in violation thereof. (Ord. No. 359 N.S., § 4 (part); Ord. No. 445, § 4)

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