

ORDINANCE NO. ___ N.S.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
TIBURON AMENDING VARIOUS PROVISIONS OF TITLE IV,
CHAPTER 13 (BUILDING REGULATIONS) OF THE
TIBURON MUNICIPAL CODE**

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

Section 1. Findings.

- A. On February 6, 2008, the Town Council adopted updated building, fire and other construction-related codes, including but not limited to uniform codes relating to fire, plumbing, electrical, housing, mechanical, dangerous building, and administration.
- B. The Town Council now finds that certain amendments to these codes as adopted are necessary and desirable to promote the public health, safety and general welfare.
- C. The Town Council has held a public hearing on January 6, 2010 and has heard and considered any and all public testimony on this matter.
- D. The Town Council finds that all notices and procedures required by law attendant to the adoption of this Ordinance have been followed.
- E. The Town Council finds that the adoption of this ordinance is ministerially exempt from the requirements of CEQA and is also exempt under the general rule set forth in Section 15061(b)(3) of the CEQA Guidelines.
- F. The Town Council has found that the amendments made by this Ordinance are consistent with the goals and policies of the Tiburon General Plan.
- G. The Town Council finds that all findings set forth or adopted by reference in Town Council Ordinance No. 501 N. S., said findings made pursuant to applicable California Health & Safety Code Sections, including without limitation Sections 17922, 17958.5, 17958.7, and 18941.5, remain applicable to these amendments and are hereby adopted by reference and fully incorporated herein.

Section 2. Amendment.

- A. Tiburon Municipal Code Title IV, Chapter 13, Section 13-4.1.1 is amended in its entirety to read as follows:

13-4.1.1 Amendments made to the 2007 California Building Code.

The California Building Code is amended or modified to read as follows:

- (a) Section 108.5.1 is amended to read as follows:

108.5.1 General. Subject to the provisions of law, including Code of Civil Procedure Section 1822.50 et. seq., officers and agents of the building official may enter and inspect public and private properties to secure compliance with the provisions of this code and the rules and regulations promulgated by the department of housing and community development. For limitations and additional information regarding enforcement, see the following:

(The remainder of this section is unchanged)

- (b) Section 108.8.1 is amended by adding a sentence to the end that reads as follows:

Nothing contained in this section shall prevent the town council from appointing the town council as the local appeals board or housing appeals board.

- (c) Section 202 is amended to add the following definition:

Residential Kitchen. An area in which the preparation of food for eating occurs (that has provisions for cooking or heating of food, or washing and storing of dishware and utensils, or refrigeration or storing of food).

- (d) Section 501.2 is amended to read as follows:

501.2 Address Numbers.

1. The following standards for address markings shall apply to residential buildings:

- a. All residential structures shall display a street number in a prominent position so that it shall be easily visible from the street. The numerals in these numbers shall be no less than four inches in height, and one-half inch in width, of a color contrasting to the background and located so they may be clearly seen and read. If a building is not easily visible from the street, then the numbers are to be mounted at the access drive leading to the building.

- b. At each vehicular access to a multiple family dwelling complex having four or more buildings, there shall be an illuminated diagrammatic representation (plot plan) of the complex, which shows the location of the viewer and the building units within the complex.
- c. In multiple family dwelling complexes, any building having a separate identifying factor other than the street number shall be clearly identified in the manner described in subsection a. Each individual unit of residence shall have a unit identifying number, letter, or combination thereof displayed upon the door.
- d. Maps of the multiple family complex will be furnished to the police and fire departments upon completion of construction. The maps shall include building identification and unit identification.
- e. Buildings shall be numbered in such a manner and sequence as to meet with the approval of the enforcing authority.
- f. This section shall not prevent supplementary numbering such as reflective numbers on street curbs or decorative numbering, but this shall be considered supplemental only and shall not satisfy the requirements of this section.

2. The following standards for address markings shall apply to commercial buildings:

- a. The address number of every commercial building shall be located and displayed so that it shall be easily visible from the street.
- b. The numerals in these numbers shall be no less than six inches in height, one-half inch in width, and of a color contrasting to the background. In addition, any business which affords vehicular access to the rear through any driveway, alleyway, or parking lot shall also display the same numbers on the rear of the building.
- c. When required by the building official, approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the fire apparatus road at the back of a property or where rear parking lots or alleys provide an acceptable vehicular access. Number height and width shall comply with Section 501.2.

(e) Section 903.2, first sentence, is amended to read as follows:

903.2 Where required.

Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in this section, provided that where applicable California Fire Code provisions, as adopted by the Tiburon Fire Protection District or the Southern Marin Fire Protection District, are more restrictive, the latter shall control.

- (f) Section 1013.1 is amended by adding the following sentence:

Guards are also required at waterfront bulkheads, fixed piers and gangways.

- (g) Section 1505 is amended to read as follows:

The roof covering on any structure regulated by this code shall be as specified in California Building Code Chapter 15 with the following conditions:

1. All new buildings and new additions shall have at least a Class A-listed or noncombustible roof covering.
2. Where alterations or repairs to existing roofs involve more than fifty percent of the total area of an existing building within a one year time period, the entire roof shall be retrofitted with at least a Class A-listed or noncombustible roof.
3. Where applicable code provisions adopted by either the Tiburon Fire Protection District or Southern Marin Fire Protection District are more restrictive, the latter shall control.

- (h) Section 3109.4 is amended to read as follows:

3109.4 Residential Swimming pools. Residential swimming pools shall comply with Section 3109.4.1 through 3109.4.3.

Exception: Spas with a safety cover complying with ASTM F 1346.

- (i) Section 3109.4.1.8 (2) is deleted.

- (j) Appendix Chapter 1 (Administration) is amended as follows:

- (1) Section 101.2 is amended by deleting the Exception, and adding the following sentence to read as follows:

This appendix chapter shall apply to all occupancies regulated by this code, and shall be in addition to those requirements specific to state regulated occupancies contained in Chapter 1 of this Code.

- (2) Section 103 is deleted.

- (3) Section 104.6 is amended to add the following phrase to the end of the last sentence:

“, including the warrant provisions of Section 1822.50 et. seq. of the Code of Civil Procedure of the State of California.”

(4) Section 105.2 is amended to delete subsections 2, 4, 5, 6 and 12, and to revise subsections 1 and 7 to read as follows:

1. One story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, providing the floor area does not exceed 120 square feet and the structure contains no plumbing, electrical or heating appliances.

7. Painting, papering, tiling, carpeting, counter tops and similar finish work, except that repaving and/or re-stripping of parking lots shall require a permit.

(5) Section 105.5 is amended to read as follows:

Section 105.5 Expiration.

1. All permits issued by the Building Official prior to April 15, 1994, and which have not expired by limitation shall remain subject to the provisions of Section 303(d) of the Uniform Building Code (1991 edition) as drafted by the International Conference of Building Officials. For purposes of such permits, failure to exercise due diligence and make substantial progress on the work authorized shall be deemed suspension or abandonment of the permit.

2. All permits issued by the Building Official on or after April 15, 1994, but prior to February 15, 2002, shall expire by limitation and become null and void eighteen months from the date the permit is issued. The Building Official shall have the discretionary authority to extend the permit in the following circumstances:

- a. Where the project is unusually large or complex additional time may be granted at the time of application, or
- b. Where the permittee has proceeded with due diligence and made substantial progress but is unable to complete the project because of unforeseen circumstances beyond the control of the permittee, one extension of up to six months may be granted. In determining whether due diligence has been exercised, the Building Official shall consider how soon work began after issuance of the permit, whether work was conducted on a regular basis and any other relevant facts. Decisions of the Building Official made pursuant to this section may be appealed to the local appeals board.
- c. Once a permit has expired pursuant to this section, the work shall not recommence until a new permit is issued. The new permit shall be issued only if there have been no changes in the original plans and specifications and a new fee equal to the full original fee is paid.

3. All permits issued by the Building Official on or after February 15, 2002, shall expire by limitation and become null and void eighteen months from the date the permit is issued, except as follows:
 - a. Where the project is unusually large or complex, a twenty-four month permit may be issued in the reasonable discretion of the Building Official at the time of initial application; or
 - b. Where the permittee has proceeded with due diligence and made substantial progress but is unable to complete the project because of unforeseen circumstances beyond the control of the permittee, one extension of up to six months may be granted, without payment of additional fees or penalties. In determining whether due diligence has been exercised, the Building Official shall consider whether work began promptly after permit issuance, whether work was conducted on a regular basis and any other relevant facts. Decisions of the Building Official made pursuant to this paragraph may be appealed to the local appeals board.
4. Once the initial permit and/or approved six month extension has expired, a Stop Work Order shall be issued and work shall not recommence until the permit is reactivated. Reactivation shall be allowed only if there have been no changes in the original plans and specifications and a Reactivation Charge equal to the full original fee is paid. A Reactivation Charge, for purposes of this section, is both a fee to recover the cost of providing additional building inspection division services and a penalty for failure to complete the project within the allotted time. A permit reactivated under this subsection shall be valid for six months from the date of initial expiration.
5. If the project is not completed within the six month extension allowed under subsection (4) above, a Stop Work Order shall be issued on the date of expiration and work shall not recommence until the permit is reactivated. Reactivation of the permit for a second six month period shall be allowed only if there have been no changes in the original plans and specifications and a Reactivation Charge equal to three times the full original fee is paid. The Building Official may, in his sole discretion, reduce the penalty based on such reasons as the project's nearness to completion and/or the cause of the delay. A permit reactivated under this subsection shall be valid for an additional six months from the date of initial expiration.

6. If the project is not completed within the six month extension allowed under subsection (5) above, a Stop Work Order shall be issued and the matter referred to the local appeals board for resolution. The local appeals board may reactivate the permit upon submission and acceptance of a completion schedule for the project and payment of five times the full original fee as a Reactivation Charge, and provided that there have been no changes in the original plans and specifications. The local appeals board may, in its sole discretion, reduce the penalty based on such reasons as the project's nearness to completion and/or the cause of the delay.
7. If the project is not completed within the six month extension allowed under subsection (6) above, or pursuant to this subsection (7), a Stop Work Order shall be issued and the matter referred to the local appeals board for resolution. The local appeals board may impose additional requirements, such as the retention of a qualified contractor for owner/builder projects or retention of a qualified construction manager for a contracted project, in order to promote swift completion. The local appeals board may reactivate the permit upon imposition of any such conditions deemed reasonable, and payment of five times the full original fee as a Reactivation Charge, provided that there have been no changes in the original plans and specifications

(6) Section 108.2 is amended to read as follows:

108.2 Schedule of Fees.

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be required as set forth in the Building Division Fee Schedule as adopted by resolution of the Tiburon Town Council and amended from time to time.

(7) Section 108.4 is amended to read as follows:

108.4 Work commencing before permit issuance.

Any person who commences any work without a permit on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty as set forth in the Town's Schedule of Fines, established by resolution of the Tiburon Town Council and amended from time to time.

(8) Section 112.3 is amended by adding thereto the following sentence:

Nothing contained in this section shall prevent the town council from appointing the town council as the board of appeals.

(k) Appendix J “GRADING” is amended as follows:

J103.3 Grading Permit Fees. Fees shall be as set forth in the Building Division Fee Schedule established by resolution of the Tiburon Town Council as amended from time to time.

J110.3 Mud, Loose Dirt, or Debris on Public Street. No person, firm or corporation who has a valid building, demolition or grading permit shall permit any mud, loose dirt or debris to be removed from the job site and deposited on any public street or sidewalk.

Section 3. Severability.

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

Section 4. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days after the date of passage, and before the expiration of fifteen (15) days after passage by the Town Council, a copy of the ordinance shall be published with the names of the members voting for and against it at least once in a newspaper of general circulation in the Town of Tiburon.

This ordinance was read and introduced at a regular meeting of the Town Council of the Town of Tiburon, held on the __ day of _____, 2010, and was adopted at a regular meeting of the Town Council of the Town of Tiburon, held on the __ day of _____, 2010, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

RICHARD COLLINS, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK