

ORDINANCE NO. ___ N. S.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
REPEALING TITLE VI, CHAPTER 30 (LEAF BLOWERS AND HEDGE TRIMMERS)
OF THE TIBURON MUNICIPAL CODE AND ADOPTING A NEW TITLE VI,
CHAPTER 30 (LEAF BLOWERS AND HEDGE TRIMMERS)**

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

SECTION 1. FINDINGS.

- A. The Town of Tiburon adopted restrictions on the operation of leaf blowers and hedge trimmers in 1995 and now finds that amendments to these restrictions are appropriate and are of such extent that repeal and re-adoption of amended regulations is warranted.
- B. On January __, 2010, the Town Council held a duly noticed public hearing, and has heard and considered public testimony on the proposed Ordinance.
- C. The Town Council finds that all notices and procedures required by law attendant to the adoption of this Ordinance have been followed.
- D. The Town Council finds that the amendment actions made by this Ordinance are necessary for the protection of the public health, safety, and welfare.
- E. The Town Council has found that the amendments made by this Ordinance are consistent with the goals and policies of the Tiburon General Plan and other adopted ordinances and regulations of the Town of Tiburon.
- F. The Town Council finds that this project is categorically exempt from the requirements of the California Environmental Quality Act under the “general rule”, pursuant to Section 15061(b)(3) of the CEQA Guidelines and is also exempt pursuant to Section 15305 (Minor Alterations to Land Use Limitations) of the CEQA Guidelines.

SECTION 2. REPEAL OF TITLE VI, CHAPTER 30 (LEAF BLOWERS AND HEDGE TRIMMERS).

Title VI, Chapter 30 (Leaf Blowers and Hedge Trimmers) of the Tiburon Municipal Code is hereby repealed.

SECTION 3. ADOPTION OF TITLE VI, CHAPTER 30 (LEAF BLOWERS AND HEDGE TRIMMERS).

Title VI, Chapter 30 (Leaf Blowers and Hedge Trimmers) of the Tiburon Municipal Code is hereby adopted as follows:

Title VI, Chapter 30: LEAF BLOWERS AND HEDGE TRIMMERS

Sections:

30-1 Title.

30-2 Purpose and intent.

30-3 Definitions.

30-4 Use Restricted.

30-5 Enforcement and violations.

30-1 Title.

This chapter shall be known as the “Town of Tiburon Leaf Blower and Hedge Trimmer Ordinance” and may be so cited.

30-2 Purpose and intent.

- (a) The purpose of this chapter is to regulate the use of leaf blowers and non-manually powered hedge trimmers within the town, so as to prevent the unreasonable and continuous disruption of the community due to associated mechanical noise and the propensity of the devices to broadcast dust and other airborne pollutants into the air and onto nearby properties.
- (b) Residential areas are being distinguished from other areas of the town because of the special maintenance needs for commercial and other public areas, and the particular sensitivity of residential uses to the impacts and effects resulting from the use of leaf blowers and non-manually powered hedge trimmers.

30-3 Definitions.

For the purposes of this chapter, the terms in this section shall have the following meaning:

“Electrically-powered hedge trimmer” means any hedge trimmer powered by electric means, including but not limited to cordless rechargeable hedge trimmers.

“Electrically-powered leaf blower means any leaf blower, leaf vacuum or other leaf gathering device powered by electric means, including but not limited to cordless rechargeable leaf blowers.

“Gas-powered hedge trimmer” means any hedge trimmer directly powered by an internal combustion or rotary engine using gasoline, alcohol or other liquid or gaseous fuel. Electrically-powered hedge trimmers are not included in this definition.

“Gas-powered leaf blower” means any leaf blower, leaf vacuum or other leaf-gathering device directly powered by an internal combustion or rotary engine using gasoline, alcohol or other liquid or gaseous fuel. Lawn mowers, lawn edgers, and electrically-powered leaf blowers are not included in this definition.

“Non-residential area” means any area other than a “residential area”, as defined herein.

“Residential area” means any parcel of land where the primary use of the property is for residential purposes (such as a single-family residence, duplex, apartment building or other form of residential structure). Street areas, up to the center line of the street, directly in front of

properties used for residential purposes are also considered residential areas for the purposes of this chapter. No parcel with a mixture of residential and commercial uses shall be considered as a residential area for purposes of this chapter.

30-4 Use Restricted.

(a) In any Residential Area:

- (1) It is unlawful for any property owner or employee, agent or contractor working for a property owner to operate or authorize the operation of any:
 - a. Gas-powered leaf blower to blow leaves, dirt or other debris off sidewalks, driveways, lawns or other surfaces at any time within any residential area, or
 - b. Gas-powered leaf blower to collect leaves, dirt or other debris from sidewalks, driveways, lawns or other surfaces at any time within any residential area.
- (2) It is unlawful for any property owner or employee, agent or contractor working for a property owner to operate or authorize the operation of any gas-powered hedge trimmer to trim, prune or otherwise maintain landscaping at any time within any residential area.
- (3) It is unlawful for any property owner or employee, agent or contractor working for a property owner to operate or authorize the operation of any electrically-powered leaf blower or any electrically-powered hedge trimmer within any residential area except between the hours of nine a.m. and four p.m.

(b) In any Non-Residential Area:

- (1) It is unlawful for any property owner or employee, agent or contractor working for a property owner to operate or authorize the operation of any leaf blower within any non-residential area except between the hours of nine a.m. and four p.m. No use of any leaf blower shall be allowed on any Saturday, on any Sunday or on any of the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- (2) It is unlawful for any property owner or employee, agent or contractor working for a property owner to operate or authorize the operation of any electrically-powered hedge trimmer within any non-residential area except between the hours of nine a.m. and four p.m. No use of electrically-powered hedge trimmers in any non-residential area shall be allowed on any Saturday, on any Sunday or on any of the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

30-5 Exemptions.

Use of leaf blowers and/or hedge trimmers by public agency employees for emergencies or for park or public right-of-way maintenance is exempted from regulations of this chapter.

30-6 Enforcement and violations.

- (a) Violations of this chapter will be subject to an administrative enforcement process under title VI, chapter 31 of this code that may include a citation assessing a monetary fine not to exceed two hundred fifty dollars and/or a verbal or written cease and desist warning from town officials. The town council may adjust the monetary fine amount for violations from time to time by resolution.
- (b) Any property owner or employee, agent or contractor working for a property owner who violates this chapter may also be considered guilty of an infraction, and each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Such infraction shall be punishable by a monetary fine not to exceed two hundred fifty dollars. The town council may adjust the monetary fine amount for violations from time to time by resolution.

SECTION 4. SEVERABILITY.

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

SECTION 5. PUBLICATION AND 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 introduced at a regular meeting of the Town Council of the Town of Tiburon on _____, 2010, and was adopted at a regular meeting of the Town Council of the Town of Tiburon on _____, 2010, by the following vote:

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

RICHARD COLLINS, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

**TOWN OF TIBURON
LEAF BLOWER AND HEDGE TRIMMER USE CHART
COMPARISON OF PROPOSED AND EXISTING REGULATIONS**

PROPOSED REGULATIONS

Type of Device	In a Residential Area	In a Non-residential Area
Gas-Powered Leaf Blowers	Use prohibited at all times	Use allowed only between 9 a.m. and 4 p.m. Monday through Friday; use prohibited on Holidays*
Electrically-Powered Leaf Blowers	Use allowed only between 9 a.m. and 4 p.m. on any day	Use allowed only between 9 a.m. and 4 p.m. Monday through Friday; use prohibited on Holidays*
Gas-Powered Hedge Trimmers	Use prohibited at all times	Use allowed only between 9 a.m. and 4 p.m. Monday through Friday; use prohibited on Holidays*
Electrically-Powered Hedge Trimmers	Use allowed only between 9 a.m. and 4 p.m. on any day	Use allowed only between 9 a.m. and 4 p.m. Monday through Friday; use prohibited on Holidays*

* Holidays are listed as New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

EXISTING REGULATIONS

Type of Device	In a Residential Area	In a Non-residential Area
Gas-Powered Leaf Blowers	Use prohibited at all times	Use allowed only between 9 a.m. and 4 p.m. Monday through Friday; use prohibited on Holidays*
Electrically-Powered Leaf Blowers	Use allowed only between 9 a.m. and 4 p.m. on any day	Use allowed only between 9 a.m. and 4 p.m. Monday through Friday; use prohibited on Holidays*
Gas-Powered Hedge Trimmers	Use prohibited at all times	No restrictions on use
Electrically-Powered Hedge Trimmers	Use allowed only between 9 a.m. and 4 p.m. on any day	No restrictions on use

* Holidays are not specifically named or listed in the existing regulations