AGENDA

SAN RAFAEL CITY COUNCIL - FRIDAY, JUNE 21, 2024

SPECIAL MEETING AT 4:00 P.M.
SPECIAL CLOSED SESSION FOLLOWING ADJOURNMENT OF SPECIAL MEETING
San Rafael City Council Chambers
1400 Fifth Avenue, San Rafael, CA 94901

Watch Online:
Watch on Zoom Webinar: https://tinyurl.com/ccsm-2024-06-21
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Members of the public may speak on Agenda Items.

CONSENT CALENDAR:

The opportunity for public comment on consent calendar items will occur prior to the City Council's vote on the Consent Calendar. The City Council may approve the entire consent calendar with one action. In the alternative, items on the Consent Calendar may be removed by any City Council or staff member, for separate discussion and vote.

1. Consent Calendar Items:

   a. **Liability Claims Administration Services**
   Authorize the City Manager to Execute an Agreement with George Hills Company for the Provision of Third-Party Liability Claims Administration Services for a Five-Year Period, In an Amount Not to Exceed $574,000 (CM)
   Recommended Action - Authorize the City Manager to approve a five-year agreement with George Hills Company to provide third-party liability claims administration services in an amount not to exceed $574,000

PUBLIC HEARINGS

2. Public Hearings:

   a. **Planning Commission and Design Review Board Consolidation**
   Introduction of An Ordinance Amending Titles 2 – Administration of the San Rafael Municipal Code to Add Design Professionals to the Planning Commission Membership Composition, and Amend Titles 14 – Zoning, and 15 – Subdivisions of the San Rafael Municipal Code, to Dissolve the Design Review Board and Transfer Existing Duties of the Design Review Board to the Planning Commission, or Zoning Administrator, or Director of Community and Economic Development (CC/CED)
   Recommended Action – Introduce the ordinance, waive further reading of the ordinance, and refer to it by title only

OTHER AGENDA ITEMS

3. Other Agenda Items:

   a. **Memorandum of Understanding with the San Rafael Mid-Management Employee Association (SRMMEA)**
   Resolution Approving a Successor Memorandum of Understanding Pertaining to Compensation and Working Conditions for the San Rafael Mid-Management Employee Association (July 1, 2024, Through June 30, 2027) (CM/HR)
   Recommended Action – Adopt Resolution

   b. **Compensation for Unrepresented Mid-Management Employees**
   Resolution Establishing the Compensation and Working Conditions for Unrepresented Mid-Management Employees (July 1, 2024, Through June 30, 2027 (HR)
   Recommended Action – Adopt Resolution

ADJOURNMENT:

OPEN SESSION – COUNCIL CHAMBERS – FOLLOWING ADJOURNMENT

4. Mayor Kate to announce Closed Session items.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM – FOLLOWING ADJOURNMENT

5. Closed Session:

   a. CONFERENCE WITH LABOR NEGOTIATORS – GOVERNMENT CODE SECTION 54957.6
   Lead Negotiators: Timothy L. Davis and Allison B. Hernandez (Burke, Williams & Sorensen)
   Agency Designated Representatives: Cristine Alilovich, Paul Navazio, Marissa Sanchez, and Angela Robinson Piñon
   Employee Organizations: San Rafael Police Mid-Management Association; Public Employee Union, Local 1; San Rafael Firefighters' Association; San Rafael Police Association; SEIU Local 1021; Western Council of Engineers; San Rafael Fire Chief Officers' Association; San Rafael Mid-Management Employee Association; Unrepresented Executive Management

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online and at City Hall, 1400 Fifth Avenue, and placed with other agenda-related materials on the table in front of the Council Chamber prior to the meeting. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing city.clerk@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request. To request Spanish language interpretation, please submit an online form at https://www.cityofsanrafael.org/request-for-interpretation/.

SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: SM 1.a

Meeting Date: June 21, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager's Office

Prepared by: Heather Davis, Risk Manager

City Manager Approval: _____

TOPIC: **LIABILITY CLAIMS ADMINISTRATION SERVICES**

SUBJECT: **AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH GEORGE HILLS COMPANY FOR THE PROVISION OF THIRD-PARTY LIABILITY CLAIMS ADMINISTRATION SERVICES FOR A FIVE-YEAR PERIOD, IN AN AMOUNT NOT TO EXCEED $574,000**

RECOMMENDATION:

Authorize the City Manager to approve a five-year agreement with George Hills Company to provide third-party liability claims administration services in an amount not to exceed $574,000.

BACKGROUND:

The City has historically contracted with a third-party administrator to manage claims adjustments, investigations, and other liability claims, as well as administrative functions for property damage and personal injury claims made by third parties against the City.

In 2001, after an extensive Request for Proposals (RFP) process to qualify, investigate, and interview candidates to administer the City's third-party liability claims, the City awarded a contract to George Hills Company, a long-established Northern California provider of third-party liability claims administration for public entities. Since then, George Hills has handled the City's liability claims from its Sonoma and Solano County offices. The claims have been handled efficiently, promptly, and at a reasonable cost.

The City's current agreement for services with George Hills Company is scheduled to expire on June 30, 2024.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

ANALYSIS:

City staff are satisfied with the services provided by George Hills Company. The City's account manager has actively and very successfully investigated and resolved third-party claims and diligently supported the City Attorney's Office in supervising litigation of those claims that have not been resolved at an early stage.

The proposed contract cost covers all claims administration services. It provides additional administrative services, including direct access to the company's claims data system, the provision of monthly reports and loss runs, assistance with audits, and filing of regulatory reports.

City staff has confidence in the company's ability to effectively manage the City's liability claims and recommends renewal of the company's contract for a five-year term.

FISCAL IMPACT:

The total cost of the current year contract is $98,000. The total cost, including Administrative and Reporting Fees, would be $574,000 over five years. The first-year costs are accounted for in the proposed FY 2024-25 budget as part of the City's general liability internal service fund. The table below contains a summary of the costs over the term of the agreement. However, there is a provision in the contract that allows the City the ability to terminate the contract with 90 days' notice.

Year:	*2024-25*	*2025-26*	*2026-27*	*2027-28*	*2028-29*
Cost:	$101,500	$105,000	$109,000	$113,500	$117,500
Percent Increase:	3.6%	3.3%	3.6%	3.9%	3.5%

OPTIONS:

The City Council has the following options to consider on this matter:

1. Authorize contract as recommended by staff approving a five-year agreement.
2. Authorize contract with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Authorize the City Manager to approve a five-year agreement with George Hills Company to provide third-party liability claims administration services in an amount not to exceed $574,000.

ATTACHMENTS:

1. July 1, 2024- June 30, 2029 Agreement for Claims Adjusting and Administration Services

CLAIMS ADJUSTING AND ADMINISTRATION
SERVICE CONTRACT BETWEEN
THE CITY OF SAN RAFAEL AND GEORGE HILLS COMPANY, INC.

Contractual Period: 2024-2029

This Contract is made, entered into, and shall be effective as of, this 1st day of July, 2024 by and between the CITY OF SAN RAFAEL, hereinafter referred to as "CLIENT," and GEORGE HILLS COMPANY, INC., hereinafter referred to as "GH."

GH is a California Corporation doing business as licensed, independent insurance adjusters and administrators, with John Chaquica, Chief Executive Officer, responsible for contract compliance, terms and corporate governance. Chris Shaffer, Chief Operating Officer, shall oversee the daily operations. The company's corporate office is located at P.O. Box 278, Rancho Cordova, California, 95741, telephone, (916) 859-4800.

The CLIENT islocated at 1400 Fifth Avenue, San Rafael, CA 94901.

IT IS HEREBY AGREED by and between the parties signing this contract as follows:

1. GENERAL

CLIENT is desirous of availing itself of liability and property claims adjusting and administration services. GH is a Third-Party Claims Administrator handling self-insured claims and is ready to and capable of performing such services. As such, GH may act as a representative of the CLIENT when directed for the investigation, adjustment, processing, and evaluation of general liability claims or incidents filed by third parties against the CLIENT, or against parties for whom the CLIENT is alleged to be legally responsible, which are premised upon allegations of willful, intentional, negligent, or careless acts and/or omissions ("CLAIMS").

2. SCOPE OF SERVICES

GH agrees to provide complete claim handling services on each accident or incident, as directed by CLIENT. Each CLAIM will be subject to the Scope of Services and Client Expressed Authority and Limitations form, attached hereto as Attachment A. CLIENT shall determine the scope of services to be provided by GH by signing the Scope of Services and Client Expressed Authority and Limitations for each Contract. The Scope of Services and Client Expressed Authority and Limitations form shall be the controlling document for the scope of claims adjusting services to be provided by GH for CLIENT and may be amended as needed during the Contractual period. Changes to the Scope of Service to be provided by GH which do not effect or alter the compensation due under the terms of this Contract may be agreed to by informal memorandum. The duties, responsibilities, and agreements contain in Attachments A, B, C, D and are also incorporated into the Scope of Services as though fully set forth herein.

3. DENIAL, COMPROMISE, OR SETTLEMENT OF CLAIMS

It is agreed that CLIENT has granted no authority to GH for the purpose of compromising, settling, and paying any claims against CLIENT being handled by GH. GH will issue payment for legal expenses as defined in the Client Expressed Scope of Work form. Prior approval to compromise or settle any claim or pay any expense will be obtained from the designated claims officer or employee on matters exceeding the authority granted above.

4. FILE RETENTION

GH shall serve as the custodian of the client's data, for documents related to each of the claims subject to this agreement only, and as such shall electronically retain all related records through the life of this contract. Upon termination of this contract and following full payment of all compensation due, GH shall electronically transfer all data pertaining to all claims, either to the CLIENT or to a recipient designated by the CLIENT, within 30 days of termination and final payment. CLIENT and GH may agree via a separate signed agreement to retain records and/or data for a longer period of time, but in the absence of such separate agreement, GH will remove all data received, held, used, or stored in relation to George Hill's performance pursuant to this contract, from its system after 30 days from termination.

5. CONFIDENTIALITY

All data, documents, discussions, or other information developed or received by or for GH In performance of this Contract are confidential and not to be disclosed to any person except as authorized by CLIENT or CLIENT's designee, or as required by law.

6. CONFLICT OF INTEREST

In the event GH receives a claim from the CLIENT in which there arises a "conflict of interest," GH shall immediately notify CLIENT, and suggest handling instructions in the address of the conflict. CLIENT may then, at their expense choose to hire another well-qualified claim firm to handle that particular claim to a conclusion. GH covenants that it presently knows of no interest, direct or indirect, which would conflict in any manner with the performance of services required under this contract.

7. CLIENT RESPONSIBILITY

CLIENT agrees that it shall:

1) Collaborate with GH as reasonably necessary for GH to perform its services including establishing, drafting, and agreeing to a complete set of Claim Handling Instructions which provide direction and guidance related to the services.

2) Provide direction to GH as requested regarding particular project requirements.

3) Communicate any changes in expectations and/or in the event GH is not performing in an acceptable manner so GH can immediately address such changes and/or performance issues.

4) Identify a primary contact person(s) for the account as well as for billing and loss run submission. In addition, CLIENT shall be responsible for reporting all changes in the primary point of contact to GH. CLIENT shall identify an individual as the contact person for provision of and communications concerning Certificates of Insurance as required herein.

5) Be responsible for reporting to GH all Bodily Injury Claims in addition to all other items noted in Attachment B to this Contract "Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA)."

6) Be responsible for updating GH on any changes to coverage/policy language; including limits, retentions/deductibles and coverage changes before the start of each policy term.

7) Obtain any necessary consent in the collection of any CLIENT data that is transmitted to a third party (i.e., lawyer, actuary, or auditor). CLIENT shall provide GH with reasonable assurances that it has the necessary consent to transmit CLIENT data to a third party. CLIENT acknowledges that the claims data may contain confidential and/or protected health information ("PHI"). In the event CLIENT authorizes and directs GH to provide claims data to a third party, CLIENT will indemnify, defend and hold harmless GH from and against all claims, damages, losses and expenses, including court costs and reasonable attorneys' fees, arising out of or resulting from:(i) any action against GH that is based on any negligent act or omission of CLIENT or a third party in transmitting and/or disclosing the PHI and/or claims data; or (ii) the violation of any state or federal statute, ordinance, or regulation by CLIENT or a third party in transmitting and/or disclosing the claims data.

8. COMPENSATION, FEES AND EXPENSES

The following compensation, fees and expenses, shall be paid in consideration for the services provided by GH as described in this Contract at Section 2 – Scope of Services. This Section shall remain in force and services provided during the entire term of this Contract, unless otherwise amended pursuant to Section 19 and/or 20 of this Contract.

The compensation to be paid pursuant to this Contract are comprised of three distinct categories:

A: "Administrative Services"

B: "Fees for Claim Adjusting Services"

C: "Allocated Costs/Expenses"

The Fees and Costs/Expenses pursuant to subsections "A", "B", and "C" will be billed together monthly in a standard invoice format utilized by GH. Additionally, if the CLIENT elects any optional services identified subsections "F" or "G" below, all additional amounts will also be billed together monthly where applicable.

A. Administration Services

1) Annual Administration Fee: $5,000 which is billed annually at the beginning of the Contract period and thereafter upon the anniversary of the Contract.

2) MMSEA: There is a $500 annual reporting fee, charged to support our contract with our service provider for reporting to CMS. This fee is billed annually at the beginning of the Contract period.

3) System Access Fee: Access to the claims management information system, "CMIS", which includes the setup and management of up to five (5) "read only" user accounts. "Read/write" access to the system can be obtained for an additional fee.

4) iMetrics Report Fee: There will be no charge for our iMetrics business intelligence reports with executive in-person debriefs.

5) George Hills Client Portal: GH operates a client interface which is intended to provide the CLIENT with information regarding claims related and loss information. CLIENT will be provided with access for two (2) users at no additional cost.

6) Custom Reports: Additional charges for custom reporting shall be defined as, requiring a third-party programmer for three hours or more and is client specific.

7) Catastrophic Fees: GH recognizes that there are events that are unanticipated and/or catastrophic. When such events occur, it requires additional hours for the handling of such claims which could not be estimated or included in the Annual Fixed Fee calculation contained herein. As such, to preserve the quality and efficiency of service, when such an event is deemed to be catastrophic by any entity providing excess coverage, the California Department of Insurance, the Insurance Services Office, or any local, state, or federal government declares a State of Emergency in relation to the subject matter upon which the claim is based, or upon agreement of the CLIENT and GH, should any one event occur resulting in five or more claimants alleging loss out of the same designated event, or two or more claimants with their own attorneys, GH will bill the CLIENT on a time and expenses basis at the current hourly rate for all services. These claims will be identified for separate billing procedures and will not be counted in the claims frequency which serves as the underlying basis for the Fixed Fee calculation applicable for the next year in the contract period. Current hourly rates*:

Claims Supervisor:	$131/hour*
Claims Adjuster:	$105/hour*
Claims Processing:	$86/hour*

8) Fixed Fee Annual Recalculation: GH reviews and analyzes the claims frequency annually. Within 30 days of the end of each 12-month period from the date the work under the contract is initiated, GH will provide notice to the CLIENT of the actual number of claims received for the preceding 12 months. If the claims frequency exceeds the base number of 60 by greater than 10%, GH will provide a new Annual Fixed Fee calculation based on the change in frequency. The new Annual Fixed Fee will begin on July 1st of the next year in the Contract term. If the frequency changes in an amount of 10% or less, there will be no change in the Annual Fixed Fee calculation.

9) Annual Fee Escalator: Notwithstanding any change in the Annual Fixed Fee recalculation, the Annual Fixed Fee and all hourly rates in this Contract shall be adjusted at the beginning of the second year of the term by the lesser of, 5% or in accordance with the changes in the Consumer Price Index (CPI-U) for all Urban Consumers for the Los Angeles Area using the annual percentage change published in the most recent month, but in any event such increase shall not be less than 3%.

10) General File: A general administrative file shall be established and maintained to track effort related to services necessary to fulfill our contractual obligations and not otherwise associated with a claim.

11) Paper Files: GH is prepared to take the lead to arrange for all services relating to conversion storage, copying, scanning, shipping, and disposal. GH will provide you a quote for any services related to storage, retrieval, copying, scanning, shipping, and disposal of paper files.

B. Fees for Claim Adjusting Services

1) Annual Fixed Fee In exchange for the services provided under this Contract by GH, CLIENT shall pay to GH the following Annual Fixed Fee(s).

Fixed Fee	
Year One July 1, 2024-2025	$101,500
Year Two July 1, 2025-2026	$105,000
Year Three July 1, 2026-2027	$109,000
Year Four July 1, 2027-2028	$113,500
Year Five July 1, 2028-2029	$117,500

**All Fee options are subject to the Annual Fee Escalator described above.*

C. Allocated Costs/Expenses

GH will charge to the CLIENT both allocated and non-allocated costs and expenses incurred pursuant to this Contract as stated herein and defined further in Attachment D, "Allocated Expenses."

1) Mileage Reimbursement: Mileage traveled will be paid at the IRS rate in effect at the time the mileage is travled. This section applies to mileage which can be allocated to a specific claim and also mileage which is not allocated to any claim, such as attendance at claim review, board and/or committee meetings requested or required by the CLIENT.

2) Adjuster Travel Expenses**:** GH will separately charge for any travel expenses in connection with attendance at mediations, settlement conferences, trials, etc. This will be subject to prior approval and actual expenses will be submitted with receipts on a monthly basis. This section applies to travel expenses which can be allocated to a specific claim and also travel expenses which are not allocated to any claim, such as attendant at claim review, board and/or committee meetings.

D. Payment Schedule

GH will submit its invoices to CLIENT, and payment shall be made by CLIENT, within a reasonable period of time, not to exceed thirty (30) days from the date of the invoice.

E. Electronic Funds Transfer Or Direct Deposit

GH has determined that the most efficient and secure default form of payment for goods and/or services provided under Contract with CLIENT shall be Electronic Funds Transfer (EFT) or

direct deposit, unless an alternative method of payment is deemed appropriate by both GH and CLIENT and agreed to in writing.

GH will submit a direct deposit authorization request via to CLIENT with banking and vendor information, and any other information that the CLIENT determines is reasonably necessary to process the payment and comply with all accounting, record keeping, and tax reporting requirements.

At any time during the duration of the Contract, GH may submit a written request for an exemption to this requirement. Such request must be based on specific legal, business or operational needs and GH will explain why the payment method designated by the CLIENT is not feasible and an alternative is necessary.

F. First PartySubrogation Services And Fees

GH is a claim administration firm experienced in the handling of first party subrogation claims and is ready and capable of performing such services on behalf of CLIENT. The fee for these services is 30% of the gross recovery. CLIENT elects to incorporate the Subrogation Services, as desired and as described more fully in Attachment A, Scope of Services and Client Expressed Authority and Limitations, Section (I)(K).

G. Optional Services

GH employs “in-house” attorneys which have vast experience in claims and litigation handling, problem resolution, issue identification and investigation, and advice and consultation, for all types of claims and issues which may arise for a public entity. Should the special circumstance arise whereby CLIENT requests additional services by a GH attorney, including those identified in the list below, the services will be provided on a time and expenses basis and at the rate of $225.00 per hour, billed using 1/10th of an hour increments for each task performed on a claim or issue. The fees charged for these services will be in addition to any other compensation defined in this

Litigation Management

Monitoring Counsel

Outside General and Special Counsel

Trial/Mediation/Board Meeting Attendance

Legal Training and Seminars

GH can also provide Professional and Financial Services related to risk management and loss prevention in alignment with the scope of services for the same rate referenced above.

NOTE: These services are traditionally Time and Expense, however an annual fee can be considered.

9. TERM AND TERMINATION

Term: The term of this contract shall be for five (5) years commencing on July 1, 2024 and remaining in full force and effect through and including June 30, 2029. Either party may terminate this contract for any reason upon issuing a ninety (90) day written notice to the other party pursuant to Section 18 of this Contract.

Termination for Convenience: CLIENT may at any time and for any reason terminate this Contract upon ninety (90) days written notice to GH pursuant to Section 20 of this Contract. Notice shall be deemed served on the date of mailing. Upon receipt of such notice, GH shall discontinue services at the end of the 90-day period in connection with the scope of services of this Contract. Upon such termination, GH shall be entitled to payment from CLIENT for services completed and provided through the date of termination, per Section 8.

Upon completion of data conversion and return of data back to CLIENT (electronic and/or hard copy), GH will destroy any remaining files.

10. FAIR EMPLOYMENT

It is the policy of GH to provide fair and equal treatment to all staff members. GH is an Equal Opportunity Employer and does not discriminate in any way against any person on the basis of age, race, sex, color, national origin, national ancestry, physical disability, medical condition, mental disability, religion, creed, marital status, sexual orientation, gender identification, gender expression, use of family care leave or any other classification deemed protected by law.

11. INDEPENDENT CONTRACTOR

In performing claims administrative services herein agreed upon, GH, and all GH employees, shall have the status of an independent contractor of the CLIENT and shall not be deemed to be an officer, employee, or agent of CLIENT.

12. INDEMNIFICATION

GH will defend, indemnify, and hold harmless CLIENT from and against all claims, demands, actions, or causes of action arising directly or indirectly from the negligent action, conduct, or failure to act by GH personnel ("Indemnity Event"), except that indemnity under this section does not apply with respect to any claim, demand, action, or cause of action arising out of the sole negligence or willful misconduct of the CLIENT. This right to indemnity shall not cover any claims in which there is a failure to give GH prompt and timely notice, within thirty (30) days of notice received by the CLIENT which implicates this provision, but only if and to the extent that such failure materially prejudices the defense of such claims. For an Indemnity Event, the maximum amount recoverable by CLIENT against GH for damages and costs (inclusive of attorneys' fees) is limited to the insurance policy limits, of the policy which covers the Indemnity Event held by GH, in place at the time of the Indemnity Event.

CLIENT will defend, indemnify, and hold harmless GH, and/or employees of GH, from and against all claims, demands, actions, or causes of action, which may arise, from the action, conduct, or failure to act by CLIENT. In any cases subject to this indemnity provision, wherein GH, or any employee of GH, is named in a filed or verified complaint simply by virtue of the fact it is the CLAIMS ADMINISTRATION firm, or an employee thereof, on a given claim, the CLIENT will defend GH, and/or its employees, at no cost to GH or its employees.

13. INSURANCE

GH shall obtain, keep and maintain insurance, and provide CLIENT with Certificates of Insurance duly executed by an authorized representative of insurance company or companies authorized to transact business in the State of California, which shall evidence that the GH has in full force and effect:

1) Commercial General Liability coverage applying to bodily injury, personal injury, and property damage with limits of $1,000,000 per occurrence;

2) Professional Liability coverage with limits of $3,000,000 per Claim/Annual Aggregate;

3) Workers' Compensation coverage with limits as required by California statutes and regulations; and waiver of subrogation for WC in favor of GH.

4) Fidelity Coverage for theft of CLIENT's property in the amount of $1,000,000 per loss.

5) Cyber/Internet Liability coverage with limits of $2,000,000.

GH shall include CLIENT as an additional insured under the Commercial General Liability insurance referenced above by endorsement or policy wording.

GH will provide thirty (30) days written notice, prior to the cancellation or reduction in insurance coverage will be provided.

During the on-boarding process, the CLIENT shall identify person or location for transmission of Certificates of Insurance.

14. EMPLOYEE SOLICITATION

During the period of this contract, and for a period of one (1) year thereafter, GH agrees not to solicit for employment any CLIENT employee contacted during the performance of this contract. During the period of this contract, and for a period of one (1) year thereafter, CLIENT agrees not to solicit for employment, or employ either directly or by contract, any employee of GH contacted by the CLIENT during the performance of this contract. In the event that CLIENT solicits an employee of George Hills who performed services on behalf of CLIENT pursuant to the Agreement, CLIENT agrees to pay a fee equal to one year of the employee's salary.

15. PERMITS, LICENSES, CERTIFICATES

GH, at GH's sole expense, shall obtain and maintain during the term of this Contract, all permits, licenses, and certificates required in connection with the performance of services under this Contract, including appropriate business license.

16. ARBITRATION

GH and CLIENT agree that in the event of any dispute with regard to the provisions of the Contract, the services rendered or the amount of GH's compensation and the dispute cannot be settled through informal negotiation, the parties agree first to try in good faith to settle the dispute by mediation before resorting to arbitration. The parties agree that any and all disputes, claims or controversies arising out of or relating to this Contract shall be submitted to JAMS, or its successor, for mediation, and if the matter is not resolved through mediation, then it shall be submitted to JAMS, or its successor, for final and binding arbitration. Either party may commence mediation by providing to JAMS and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of neutrals and in scheduling the mediation proceedings. The parties agree that they will participate in the mediation in good faith and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are confidential, privileged and inadmissible for any

purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may initiate arbitration with respect to the matters submitted to mediation by filing a written demand for arbitration at any time following the initial mediation session. The mediation may continue after the commencement of arbitration if the parties so desire. Any arbitration arising out of or related to this Contract shall be conducted in accordance with the expedited procedures set forth in the JAMS Comprehensive Arbitration Rules and Procedures as those Rules exist on the effective date of this Contract, including Rules 16.1 and 16.2 of those Rules. In any arbitration arising out of or related to this Contract, the arbitrator shall award to the prevailing party, if any, the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration.

17. FORCE MAJEURE CLAUSE.

GH shall be relieved of any liability if unable to meet the terms and conditions of this Contract due to any "Act of God", natural disasters such as earthquake or fires, floods, riots, epidemics, pandemics, including COVID-19 regulations or restrictions issued by federal, state or local governmental authorities, strikes, or any act or order which is beyond the control of GH, provided GH takes all reasonable steps practical and necessary to effect prompt resumption of its responsibilities hereunder.

18. NOTICES

All notices to GH shall be sent via electronic mail (preferred), or U.S. Mail, postage prepaid, to he following address:

GH
George Hills Company
Attn: John Chaquica, CEO
P.O. Box 278
Rancho Cordova, CA 95741
E-Mail: John.Chaquica@GeorgeHills.com

All notices to the CLIENT shall be personally served or mailed, postage prepaid, to the following address:

Client:
Robert F. Epstein
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901
415-485-3080
rob.epstein@cityofsanrafael.org

This Section only, regarding Notices, may be amended unilaterally by either party by and through the communication of new or amended contact information to the other party via e-mail at any time. GH will provide a form to the CLIENT by which it may amend or update the information stated in this section.

19. AMENDMENT

GH and CLIENT agree that the terms and conditions of the Contract may be reviewed or modified at any time. Any modifications to this Contract, however, shall be effective only when agreed to in writing by both the CLIENT and GH, excepting only, modifications to the contact information to which Notices shall be sent under Section 18. Changes to the Scope of Service to be provided by GH which do not effect or alter the compensation due under the terms of this Contract may be agreed to by informal memorandum.

20. AMENDMENT DUE TO GOVERNMENTAL, POLITICAL, OR LEGISLATIVE CHANGES

GH and CLIENT agree that governmental, political, or legislative changes may impact the work of GH and CLIENT on behalf of CLIENT members. GH reserves the right, for the benefit of both parties, to require an amendment to any portion(s) of this Contract, expressly including the compensation, fees, and expenses stated in Section 8, in response to any change to, addition or deletion of any statute, rule, regulation, or policy which materially impacts the liability of public entities in California, damages for which public entities may become responsible, and/or the handling, administration, adjustment, payment, and/or reporting related to services performed under this Contract.

21. CONTRACTOR NOT A PUBLIC OFFICIAL

Neither GH, nor any employee of GH, is a "public official" for purposes of Government Code §§ 87200 et seq. GH conducts research and arrives at conclusions, provides advice, recommendation, or counsel independent of the control and direction of the CLIENT or any official of the CLIENT, other than normal contract monitoring. In addition, GH possesses no authority with respect to any CLIENT decision beyond these conclusions, advice, recommendation, or counsel.

22. ENTIRE CONTRACT

GH and CLIENT agree that this Contract constitutes the entire Contract of the parties regarding the subject matter described herein and supersedes all prior communications, contracts, and promises, either written or oral.

23. TIME OF ESSENCE

Time is of the essence in respect to all provisions of this Contract that specify a time for performance: provided, however that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Contract.

24. COUNTERPARTS

This Contract may be signed in counterparts, each of which is an original, and all of which together constitute this Contract

IN WITNESS WHEREOF the parties represent and warrant they each of them have read, understand, and negotiated the terms and conditions contained herein, and agree to be bound by all terms and conditions of this Contract as outlined in this document and all attachments and/or exhibits included herewith, which are fully incorporated into the Contract.

Approved as to Content: _____ Cristine Alilovich, City Manager The City of San Rafael	 _____ John E. Chaquica, CEO George Hills Company, Inc.
	 _____ Chris Shaffer, COO George Hills Company, Inc.

ATTACHMENT A

SCOPE OF SERVICES AND CLIENT EXPRESSED AUTHORITY

AND LIMITATIONS UNDER THE CONTRACT

This Attachment A is intended to provide the Scope of Services referenced in Section 2 of the Contract and also the specific service expectations in the Contract, that would not otherwise require revision during the Contract period, and which may differ from, or elaborate upon, our Client Service Profile. Services to be provided by GH on behalf of CLIENTS may include some or all of the following,

I. SERVICES INCLUDED IN THE CONTRACT

A. General Administrative Services

Throughout each year GH performs numerous functions which support claims administration on behalf of the Client, but do not include any claims handling, and are performed by non-claims personnel. Additionally, in the first year of a new client there are several "on-boarding" services that are general and administrative in nature. Below is a list of such services which are included within the terms of this Contract:

1) Claims Management Information System ("CMIS") Services and Reports
    a. Access to CMIS and training.
    b. A monthly listing of open claims, showing expense categories, reserves, and total incurred.
    c. Monthly claim summary reports.
    d. Monthly hours and claims data detail for billing.
    e. Providing loss run data and required reports.
    f. Access to GH Client Portal.
2) Providing annual reports to outside agencies.
3) Filing of regulatory reports (such as 1099, W-9, etc.).
4) Trust Account
    a. Establish and maintain a trust account to pay indemnity and expenses that may be due on claims. The amount to be maintained in the trust account shall be determined by CLIENT.
    b. If the trust account is set-up with the GH preferred bank—California Bank and Trust, GH covers the cost of Positive Pay and Payee Match.
    c. If the CLIENT prefers an alternate bank, there may be an additional set-up fee (other banks processes can be extraordinarily time consuming).
    d. New bank account set up (signature cards, test checks, online access, set up bank in CXP).
    e. Discussion and agreement on the approval process.
    f. Preparation of W-9.
    g. Process checks weekly.
    h. Submit positive pay if applicable/monitor positive pay (review daily emails from bank for exceptions).
    i. Maintain a copy of all checks drawn by GH to pay claims and claims related expenses.
    j. Submit monthly check registers of all transactions made for the period.

k. Monitor account balance and prepare replenishment requests monthly. Where replenishment of the account is required more than once per month, an additional administration fee may be required.
l. Monthly bank reconciliation (prepared and sent to CLIENT).
m. Payment of invoices that are pass-throughs (i.e., invoices for medical record copies, ExamWorks, etc.).
n. Respond to special funding requests arising out of the settlement of a claim or case and funding thresholds as defined in the Claim Handling Instructions. In the event that more than two special funding requests are required in a month, an additional fee will apply.

5) Certificates of insurance as required by the Contract.
6) Annual Service
   a. Respond to outside financial auditors.
   b. Provide reports to CLIENT actuaries and claims auditors
   c. Submit GH SSAE 16 reports, or the current equivalent.
   d. Providing annual reports to outside agencies.
   e. Filing of regulatory reports such as 1099, W-9, etc.
7) Account Management

B. Investigative Services

1) Receipt and examination of all reports of accidents or incidents that are or may be the subject of claims.
2) Investigate accidents or incidents as warranted, to include on-site investigation, photographs, witness interviews, determination of losses and other such investigative services necessary to determine all CLIENT losses but not to include extraordinary investigative services outside the expertise of GH.
3) In the event CLIENT or other agency conducts any investigation, and upon Client's request, GH shall review and analyze for liability and/or damage issues and for possible additional follow-up investigation.
4) Maintain service on a 24-hour, 7 days per week basis, to receive reports of any incident or accident which may be the subject of a liability claim and provide immediate investigative services to the extent necessary to provide a complete investigation.
5) Undertake items of investigation requiring special handling for CLIENT at the direction of the CLIENT's Attorney or authorized representative.

C. Liability and Claim Handling Services

1) Promptly set up a claim file upon receipt of the claim and maintain a claim file on each potential or actual claim reported.
2) Assess and evaluate the nature and extent of each claim and establish claims reserves for indemnity and legal expense.
3) GH will follow any CLIENT policy regarding tort claim rejection instructions, including rejection and return of an untimely or insufficient claim.
4) Ensure timely tort claim handling, including contact and follow-up with claimants regarding claim issues and processing.
5) Any bodily injury claim that is being pursued shall be indexed. Notice only matters or precautionary bodily injury claims that are not pursued do not need to be indexed.
6) Determine the need for defense representation, recommend legal counsel, and support litigation activity.

7) Report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.
8) Maintain records on any such claim and notify CLIENT when CLIENT is about to exhaust the Self-Insured Retention.
9) Obtain settlement contracts and releases upon settlement of claims or potential claims not in litigation.
10) Perform periodic reviews, as needed, of CLIENT files and claims as well as statutory requirements to ensure compliance including excess insurance related requirements.
11) Perform the necessary data gathering for the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) and the Set Aside Contracts in compliance with Section 111 of the MMSEA including the required reporting. *(See Attachment B)*
12) To the extent there is privileged information or PHI shared between agencies, which is subject to protection under HIPAA, GH shall implement all necessary measures in compliance with the Act and will execute a Business Associates Agreement (BAA).

D. Litigation Support Services

1. Upon notification by the CLIENT that litigation has been filed naming CLIENT or any of its members, GH shall follow the instructions outlined in the Client Expressed Scope of Work Instructions form. GH will work collaboratively with CLIENT to post all legal payments and expenses and to ensure that all financial activities related to the case are recorded in the system for inclusion on a formal loss run which will be provided to the CLIENT.
2. The CMIS operated by GH will serve as the repository for the CLIENTS's legal file pertaining to the litigation.,
3. GH will collaborate with the CLIENT to ensure that there is a process such that the file contents include the following documents and information:
    1. Operative Summons and Complaint
    2. Case evaluations from defense counsel
    3. A summary or copy of any discovery motions
    4. Summary of discovery efforts and evidence obtained
    5. Expert Witness Reports and summary of expected testimony
    6. A summary or copy of dispositive motions
    7. Mediation or settlement conference statements of all parties
    8. Settlement demands or offers from any party
    9. A copy of any Judgment, arbitration award, or Jury verdict
    10. Any Court order of significance to liability in the case
    11. Appellate documents including open and responsive briefs and opinions or decisions issued by the Court.

E. Litigation Management and Support Services (optional)

1) Claims Processors, Adjusters and/or Supervisors will perform the following services in relation to litigated, or to-be-litigated, claims:
    - Upon notification by the CLIENT that litigation has been filed on an open claim, GH shall follow the litigation referral process as outlined in the Client Expressed Scope of Work Instructions form.
    - Work cooperatively with CLIENT in choosing outside counsel from approved panel and assist defense counsel in on-going litigation defense efforts.

- Obtain and maintain a Litigation Plan and Budget.
- Review legal bills in connection with Litigation Plan and Budget; Review, evaluate and adjust defense counsel invoices for legal services in cooperation with the CLIENT.
- Cooperate with and assist defense counsel assigned to litigation of open claims and provide such investigative services as directed during pre-trial and trial stages.
- Assist in responding to discovery or preparing discovery.
- At the request of the CLIENT, attend mandatory settlement conferences on behalf of CLIENT.
- Appear on behalf of CLIENT in small claims actions filed against CLIENT on open claims handled by GH.
- Review and evaluate case evaluations, correspondence and status reports forwarded to GH by counsel. Regularly discuss, review, and direct investigation, discovery, and case strategy with counsel.
- Cooperate with counsel and litigation manager as a team with an open communication approach on each case to obtain the most economical and best result for the CLIENT.

2) Litigation Managers may perform the following services:
   a. For designated claims identified as having a complex nature or potential high level of exposure, including coverage issues:

      - Review to determine proper handling throughout the life of the claim and/or litigation
      - Assess excess coverage reporting requirements and potential issues related to coverage and advise GH personnel of the need for reporting
      - Identify the need for evidence preservation including scope and duration
      - Assess need for early intervention by and assignment to defense counsel where appropriate
      - Assess need for early retention and evaluation by expert witnesses
      - Review case evaluations, correspondence and status reports forwarded by defense counsel to advise CLIENT on proper handling including settlement, trial, and/or appellate work
      - Monitor the case and advise on updating reserves and financial information on the file to maintain current and accurate loss information
      - Provide advice on and/or assign defense counsel and ensure that a plan of action, budget, and evaluation of the case is prepared and maintained on designated cases
      - Obtain, review, and analyze status reports of defense counsel and participate in selection of strategy, need for motions, retention of experts, trial preparation and trial, and appellate work
      - Cooperate with counsel, claims supervisor and adjuster as a team with an open communication approach on each case to obtain the most economical and best result for the CLIENT
      - Appear at mediations and settlement conferences

   b. For non-claims related matters:
      - Evaluate defense attorney case load and areas of practice to ensure consistent handling between cases with similar subject matter

- Where appropriate, will analyze the work of defense counsel and participate in the selection of new counsel or correction of existing counsel where appropriate
- Provide input on the selection and retention of new defense counsel whether to retain off-panel counsel for a specific claim or case, or through participation in the RFP process whereby new firms and/or attorneys are added to the County's defense attorney panel.
- Provide independent analysis of risk exposure not only based on education, training, and experience the Litigation Managers, but also based on litigation trends across the state for similar cases, incidents, and legal issues.

F. Reports and Procedures

1) Within thirty (30) days of assignment, or sooner if practicable, required, or requested, GH will provide CLIENT with a report pursuant to specified claims handling instructions, showing name(s) of claimant(s), type of claim, date of loss, comments on liability, reserve recommendations, settlement recommendations, and other pertinent information. Subsequent to the initial thirty (30) day report, GH will report as often as warranted by any important change in status but no longer than every ninety (90) days until the claim closes unless extended diary is appropriate.
2) All original reports, documents, and claim data of every kind or description, that are prepared in whole or in part by or for the GH in connection with this contract shall be CLIENT's property and constitute the GH's work product for which compensation is paid. A copy of all reports, documents, and claim data of every kind or description that is in whole or in part by or for the CLIENT is the property of GH. Additional copies of original reports, documents, and data requested by CLIENT will be at CLIENT's expense in accordance with this contract.
3) GH agrees that CLIENT have access and the right to audit and reproduce any of the GH's relevant records to ensure that the CLIENT is receiving all services to which the CLIENT is entitled under this Contract or for any purpose relating to the Contract.

G. Data

1) Utilize GH's claims management information system. CLIENT will be provided "read-only" access to the claims system. "Read-write" access may be obtained at the CLIENT's additional expense.
2) Record all claim information including all financial data.
3) Provide CLIENT and broker Read only on-line access to the claims data system (up to five users), if desired by CLIENT.
4) Provide monthly standard loss run and check register.
5) Provide annual claims data report upon request. Written authorization and/or a Business Associate Agreement may be required for confidential information protected by HIPAA.
6) Provide assistance to CLIENT in developing customized reports when requested (may require additional charge).
7) Arrange for electronic file conversion for any open and closed claims at the direction of CLIENT.

H. Claim Review Meetings

GH shall, on a mutually agreed periodic basis, meet with Client to review and discuss the CLIENTS claims inventory and claims results of specified periods and delivery of services by CLAIM ADMINISTRATOR. GH will attend four (4) claims review meetings annually with two (2) of the meetings tp be attended in-person and an agreed upon location and two (2) of the meeting to be held remotely by phone or video conference.

I. Financial Accounting

1) Establish and maintain a trust fund for the purpose of paying indemnity and expenses that may be due on the claims. The amount to be maintained in the trust fund shall be determined by the Client.
2) Maintain a copy of all checks drawn by the GH to pay claims and claims related expenses.
3) Submit monthly check registers of all transactions made for the period.
4) Complete or update Attachment B "Preferred Method of Check Processing" for check processing options.
5) Approval process shall be documented in GH Client Expressed Scope of Work Standards and Instruction Form.
6) GH will provide monthly bank reconciliation reports to CLIENT for audit purposes.

J. Third Party Subrogation Services

In any claim in which CLIENT is alleged to be liable or case in which CLIENT is a named defendant, GH will identify additional parties to that dispute which may also bear responsibility or liability for the damages claimed by the claimant(s) and/or plaintiff(s). Where additional individuals or entities are identified as having some responsibility, GH will perform the following services:

1) Identify to the CLIENT, the additional individuals or entities and the basis for potential liability.
2) Prepare and file a claim with each identified individual or entity.
3) As applicable, tender defense to or seek recovery from any identified individual or entity.
4) With client's prior approval and with the assistance of counsel, GH will prepare and file, or caused to be prepared and filed, any necessary litigation required to affect the claim of recovery on behalf of the CLIENT.
5) Manage litigation related to such claims or cases made to or filed against the other individual or entity.
6) All costs and expenses of litigation filed pursuant to this section, including attorney fees for outside counsel where necessary and approved, will be paid by the CLIENT.

K. First Party Subrogation Services

In the event that CLIENT assigns first party subrogation claims to GH, CLIENT shall identify damages it has sustained which have a value of $1,000 or greater and for which any individual or entity is believed to be liable or responsible, the following may be performed:

1) CLIENT may authorize GH to act as a representative of CLIENT for the investigation, adjustment, processing, supervision, and evaluation of an ultimate recovery of potential money from the identified individuals or entities.

2) With prior approval of the CLIENT, GH my engage the services of one of the CLIENT's litigation attorneys to consult, review, and determine the best legal strategy available leading to recovery for the CLIENT. Upon determination by the attorney that a civil action

is in the best interest of the CLIENT, GH will notify the CLIENT and obtain authorization to initiate litigation in accordance with the recommendations of the CLIENT and its attorney.

3) Where GH is able to recover money from an identified individual or entity, in addition to any other compensation identified in this contract, CLIENT will pay a Subrogation Fee in the amount of 30% of the gross amount recovered for each recovery obtained by GH. The minimum amount to be paid to GH will be $250 per claim upon recovery. However, GH has the authority to reject any claim for any reason, relieving the CLIENT of any fiscal responsibility for rejected claims only. The amounts due under this section shall invoiced to the CLIENT on a monthly basis following receipt of the recovery payment from the at-fault party.

4) While GH is handling a subrogation claim for the CLIENT pursuant to the terms of this Contract, and the institution of a civil action is determined by the CLIENT to be the best course of action, CLIENT may elect to, at CLIENT's expense, recall the claim to the CLIENT's control so that CLIENT may pursue recovery in a manner in the best interest of the CLIENT. In the event the CLIENT recalls the claim as indicated above, or terminates the services of GH for any reason, CLIENT shall be responsible for payment to GH for any and all time and expense incurred by GH's subrogation claim adjuster, and/or subrogation division staff, up to the time wherein the claim has been recalled by the CLIENT.

5) Where requested, GH shall consult with CLIENT on claims and other related matters not specifically assigned to GH for handling under this Contract.

6) GH reserves the right to cease working on any claim whereas information has not been made available to GH within 120 days after GH has submitted the information and/or documentation to the CLIENT, at such time, the claim will be closed.

7) Due to the nature of these services, in that compensation is contingent upon recovery, if the contract is terminated prior to recovery or other closure of any claim, the CLIENT shall pay GH for all expenses and time spent, to date, on any claims(s) currently open and recovery in process. Payment shall be based on the current hourly rate of GH of $95.00 per hour. GH will submit final invoice within five business days of termination.

8) All costs and expenses of litigation filed pursuant to this section, including attorney fees for outside counsel where necessary and approved, will be paid by the CLIENT.

9) GH does not handle subrogation claims with a value less than $1,000, unless a separate arrangement is established and agreed to..

10) Billing for Services and Payment to GH: The process preferred by GH is stated as follows:

A. Once recovery is agreed to between GH and the at-fault party and all documentation executed including a release, the at-fault party will issue a check to GH for the full agreed upon amount;

B. GH shall deposit the gross recovered funds into the GH Client Trust Fund.

C. Within ten (10) days after deposit, GH will issue the net payment to the CLIENT of the amount remaining after deduction of the fees to compensation GH based on this Contract.

D. If CLIENT terminates the services of GH related to First Party Subrogation before the end of the Term, GH will invoice on a time and expense basis all work on claims for which collection has not been received by GH. The parties may discuss additional conditions under which payment may be made or work continued and may reach an additional agreement related thereto at the time of termination.

II. CLIENT EXPRESSED AUTHORITY AND LIMITATIONS

The list immediately below contains numerous services provided in this Contract for which GH requests the CLIENT expressly establish authority and/or limitations, on the ability of GH to act on behalf of the CLIENT. The CLIENT will check the appropriate box establishing the authority of GH to act or the limitation as to that authority.

GENERAL ADMINISTRATIVE SERVICES:

☐ George Hills will establish and maintain a trust account for claim-related payments

☐ CLIENT will will make all claim-related payments

☒ GH will send certificates of insurance to the following contact: Laraine Gittens, laraine.gittens@cityofsanrafael.org

INVESTIGATIVE SERVICES:

☐ George Hills will conduct all investigations

☐ CLIENT will conduct all investigations

☒ CLIENT will direct GH on each claim as to who performs investigations

In the event the Client or other agency conducts any investigation, GH shall review for completeness.

Retention of Vendors (appraisers, translators, copy services, Independent Adjuster, IME's, Surveillance, etc.):

☒ Must be preauthorized by CLIENT

☐ Does not need preauthorization

LIABILITY AND CLAIM HANDLING SERVICES:

CLIENTS position regarding rejections (*e.g., if entity so dictates, a claim will be rejected for insufficiency)*. Check all that apply.

Protocols for Rejections

☒ GH needs authorization

☐ GH does not need authorization

☒ GH sends the Rejection

☐ CLIENT sends the Rejection

☒ GH sends out Denial Letter simultaneously with Rejection outlining the reason

LITIGATION SUPPORT SERVICES:

Check all that apply.

☒ CLIENT will handle litigated claims inhouse, with GH to capture data into SIMS

- ☐ CLIENT will send data to GH weekly
- ☐ CLIENT will send data to GH monthly

Excess Reporting

☒ GH will report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.

☐ CLIENT will report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements

Claims Exceeding SIR:

☐ GH stops tracking activity once the SIR has been reached.

☐ GH will continue to track all activity at and/or above the SIR. The Excess JPA/Carrier will provide GH with activity documentation above the SIR.

☐ GH will reserve to Full Value and track recoveries.

LITIGATION MANAGEMENT AND SUPPORT SERVICES:

Check all that apply.

☐ GH will handle litigated claims

- ☒ All litigated cases
- ☐ Case as assigned

Mandatory Settlement Conferences

☐ GH always attends

☒ CLIENT will attend with GH attending upon request only

Small Claims Actions filed against CLIENT

☒ GH always appears

☐ CLIENT will attend with GH attending upon request only

Legal Counsel

☒ GH must have CLIENT authorization to refer to outside Legal Counsel

☐ GH does not need CLIENT authorization to refer to outside Legal Counsel

☐ GH must use CLIENT approved Legal Panel for Attorney selection

☐ CLIENT does not have an approved Legal Panel for Attorney selection

☐ All Litigation to be handled by CLIENT inhouse Legal

☐ GH always sends Litigation Assignment packets to Legal Counsel

CLIENT specific Litigation Guidelines: ☐ Yes ☐ No

CLIENT specific Litigation Referral Form/Letter: ☐ Yes ☐ No

CLIENT specific Litigation Budget Form: ☐ Yes ☐ No

Pay fees for Experts, photocopies, medical records as: ☐ Expense ☐ Legal

REPORTS AND PROCEDURES:

☒ GH will provide client reports of all claims Quarterly.

☐ GH will arrange for the performance of an audit annually.

☐ CLIENT will arrange for the performance of an audit annually.

AUTHORITY LEVELS:

Reserve within SIR:

☐ $0.00 ☒ Other: $250,000

Adjuster must seek approval from (client contact) to post indemnity reserves above authority level.

Settlement Authority:

☒ $0.00 ☐ Other:_____

Adjuster must seek approval from (client contact) to consent to settlement of any claim at or above the amount indicated.

Medical Treatment**:**

☒ Medical Authorizations should only be sent to the claimant once liability is determined to be adverse to the CLIENT.

☐ Medical Authorizations should go out as soon as it is determined that a BI claim is being pursued.

FINANCIAL ACCOUNTING:

☐ George Hills will establish and maintain a trust account for claim-related payments

☐ CLIENT will will make all claim-related payments

☐ George Hills will provide trust account reconciliatrion reports monthly

☐ George Hills will provide check registers reports monthly

☐ N/A

THIRD PARTY SUBROGATION SERVICES:

☐ GH is authorized to initiate third party subrogation claims on behalf of CLIENT

☒ GH must obtain authorization to initiate third party subrogation claims on behalf of CLIENT.

FIRST PARTY SUBROGATION SERVICES:

☐ CLIENT elects to incorporate the first party subrogation services of GH into the contract

☐ CLIENT authorizes GH to initiate first party subrogation claims on behalf of CLIENT

☐ CLIENT agrees to the additional compensation payable to GH for its first party subrogation services as follows:

GH shall be entitled to 30% of the gross recovery for each claim initiated by GH through its first party subrogation efforts.

☐ CLIENT agrees to the terms and conditions stated in Attachment B, Subrogation Services.

☐ N/A

ATTACHMENT B
MEDICARE, MEDICAID, AND SCHIP EXTENSION ACT OF 2007 (MMSEA)

This law requires liability insurers, self-insurers, no fault insurers and workers' compensation insurers to report certain information to The Centers for Medicare and Medicaid Services (CMS) concerning Medicare beneficiaries. The penalty for failure to comply is $1,000 per day, per claimant.

George Hills Company, Inc. (GH) has contracted with ExamWorks for Mandatory Insurer Reporting (MIR) for the CLIENT. ExamWorks shall represent the CLIENT–and Responsible Reporting Entity (RRE) to this existing contract and this addendum and will be the designated reporting agent. GH will be responsible for gathering and reporting accurate claims data required by MMSEA to ExamWorks in a timely manner. GH agrees to assume the responsibility for reporting data to ExamWorks to meet all reporting requirements in accordance with MMSEA, on behalf of the RRE; including assuming responsibility for any fines or penalties that are directly caused by GH's non-compliance. GH further agrees to indemnify and hold-harmless, RRE, and staff, for any penalties or fines resulting from GH's direct failure to timely and accurately provide the reporting data to ExamWorks. The above-mentioned obligations to indemnify and hold-harmless shall not be applicable to matters relating to delays caused by RRE or other third parties, or inaccurate data supplied to GH by RRE or other third parties.

By contract with GH, ExamWorks will indemnify and hold GH harmless from and against any claim, damage, fine, loss and expense, arising in connection with, or as a result of, any error, omission, or negligent performance of its obligations as reporting agent, which indemnity will include all reasonable costs of litigation and attorneys' fees incurred. Without in any way limiting the indemnity set forth in this Contract, all work performed by ExamWorks will be done in a professional manner.

GH shall perform the necessary data gathering for RRE and ExamWorks; as such GH shall include in our monthly invoicing the time incurred for such work at our contract hourly rate or will be included in your monthly flat fee or claims adjusting.

ExamWorks will perform the MMSEA Mandatory Insurer Reporting function for GH, and its RREs, shall be charged as an Allocated Expense, as defined in Attachment C, subject to the following. RRE will designate ExamWorks, unless otherwise requested, as its exclusive vendor for all of RRE's "Qualified Referrals" (those claims determined to require Medicare Set Aside (MSA) or a Claim Settlement Allocation (CSA) and RRE will utilize other ExamWorks services related to Medicare Secondary Payer (MSP) compliance identified in their fee schedule.

ATTACHMENT C
PREFERRED METHOD OF CHECK PROCESSING

1. Selection of Bank

a) ☐ GH uses CA Bank & Trust

b) ☐ Clients Choice

Name

Address

Please provide signature cards, sample check, starting check number, name of contact person

2. Trust Balance Desired $_____

3. Account funding: GH will notify client when the balance falls below required balance

4A. Number of Signatures Required

a) ☐ One

b) ☐ Two on all checks

c) ☐ Two on checks in excess of $_____

4B. If two signatures are required please specify:

a) ☐ Both GH

b) ☐ One GH, one client

GH signers: John Chaquica, CEO; Chris Shaffer, COO;

5. Accountability

a) Positive Pay: Yes ☐ No ☐

GH recommends positive pay to mitigate the potential for fraud.

b) Check Registers: Yes ☐ No ☐

Weekly ☐ Monthly ☐

c) ☐ Statement to be balanced by client, or

☐ Statement to be balanced by GH with copies to client

ATTACHMENT D
ALLOCATED EXPENSES

Typically, allocated expenses are those expenses that are generated by a claim (by outside vendors other than George Hills) that cannot be foreseen nor included in this Contract. These expenses are generally allocated back to the specific claim file for which the cost was incurred and then charged back to the entity whose claim incurred that cost. In most situations these are pass-through costs (with processing fees) for services and/or fees not directly generated by the TPA, but rather by a third-party consultant where the TPA has acted as an agent on behalf of the entity to necessarily outsource services to a third-party consultant and/or miscellaneous fees applicable to the specific claim applied by an outside entity, such as a court or copy services. Below, George Hills has provided a list, which is not an exhaustive list, of typical allocated expenses.

Paid to GH

- CMS reporting costs and fees (ExamWorks);

Paid to Others as Authorized by Client

- Fees of outside counsel for claims in suit, coverage opinions, and litigation, and for representation and hearings or pretrial conferences;
- Fees of court reporters;
- All court costs, court fees, and court expenses;
- Fees for service of process;
- Costs of undercover operatives and detectives (if initially paid by GH);
- Costs for employing experts for the preparation of maps, professional photographs, accounting, chemical or physical analysis, or diagrams;
- Costs for employing experts for the advice, opinions, or testimony concerning claims under investigation or in litigation for which a declaratory judgment is sought;
- Costs for independent medical examination or evaluation for rehabilitation;
- Costs of legal transcripts of testimony taken at coroner's inquests, or criminal or civil proceeding;
- Costs for copies of any public records or medical records;
- Costs of depositions and court reporting;
- Costs and expenses of subrogation, (if not George Hills);
- Costs of engineers, handwriting experts, or any other type of expert used in the preparation of litigation or used in a one-time basis to resolve disputes;
- Witness fees and travel expenses;
- Costs of photographers and photocopy services (if not George Hills—our costs for this is included in our rate);
- Costs of appraisal fees and expenses not included in flat fee or performed by others;
- Costs of indexing claimants;
- Services performed outside the TPA's normal geographical regions;
- Costs associated with Medicare Set-Aside analysis and submission or Medicare Conditional Lien negotiation;

- Investigation of possible fraud including SIU services and related expenses; and/or
- Any other similar cost, fee, or expense that is not otherwise included in the TPA's service fees that is reasonably chargeable to the investigation, negotiation, settlement, or defense of a claim or loss or to the protection or perfection of the subrogation rights of the entity, including travel related expenses.

Travel Related

- Costs of travel related to claims including mileage driven, such as for attendance at inspections, mediations, and trial, shall be allocated to the specific claim and reimbursed to GH based on the actual cost incurred. Mileage shall be reimbursed at the current IRS rated at the time the mileage is traveled

SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: SM 2.a

Meeting Date: June 21, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Clerk
Community & Economic Dev.

Prepared by: Micah Hinkle, Community & Econ Dev. Director

Lindsay Lara, City Clerk

City Manager Approval: _____

TOPIC: PLANNING COMMISSION AND DESIGN REVIEW BOARD CONSOLIDATION

SUBJECT: ORDINANCE AMENDING TITLES 2 – ADMINISTRATION OF THE SAN RAFAEL MUNICIPAL CODE TO ADD DESIGN PROFESSIONALS TO THE PLANNING COMMISSION MEMBERSHIP COMPOSITION, AND AMEND TITLES 14 – ZONING, AND 15 - SUBDIVISIONS OF THE SAN RAFAEL MUNICIPAL CODE, TO DISSOLVE THE DESIGN REVIEW BOARD AND TRANSFER EXISTING DUTIES OF THE DESIGN REVIEW BOARD TO THE PLANNING COMMISSION, OR ZONING ADMINISTRATOR, OR DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

RECOMMENDATION:

Introduce the Ordinance to amend Title 2- Administration of the San Rafael Municipal Code to add design professionals to the Planning Commission membership composition and amend Titles 14-Zoning and 15-Subdivisions of the San Rafael Municipal Code to dissolve the Design Review Board and transfer existing duties of the Design Review Board to the Planning Commission, or Zoning Administrator, or Director of Community and Economic Development.

BACKGROUND:

On December 18, 2023, the City Council received a report and provided feedback regarding the consolidation of the Design Review Board (DRB) and the Planning Commission (PC). The recommended consolidation is in response to State housing laws such as:

- The Housing Accountability Act, which limit local jurisdictions from denying housing development projects that meet applicable objective development standards; and,
- The Housing Crisis Act of 2019 (SB 330, as amended by SB 8), which limited the number of meetings a city may hold to five for certain residential projects and mixed-use projects that are two-thirds residential by square footage; and,
- SB 9, which mandates a ministerial review for certain types of residential projects and lot splits.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

The City Council provided feedback to staff to return at a future City Council meeting after 1) adoption of revised Objective Design Standards, which were adopted on March 18, 2024; 2) hiring of the permanent Community & Economic Development Director, who was hired on March 1, 2024; and 3) more time for the community to provide feedback to staff.

ANALYSIS:

On June 11, 2024 and June 18, 2024, the San Rafael Planning Commission reviewed the proposed ordinance amendments to Title 2, Title 14, and Title 15 of the San Rafael Municipal Code for the elimination of references to the Design Review Board and assignment of those duties to the Planning Commission and on June 18, 2024, recommended approval of the ordinance amendments to the City Council. In addition, the Planning Commission suggested that the City Council consider including the following edits:

Title 2 – Administration of the San Rafael Municipal Code: Amend the duties of the Planning Commission to include applicable duties that are reassigned from the Design Review Board. Include a definition of "Design Professional". A "Design Professional" is defined as an architect, engineer, landscape architect, building designer, urban designer, urban planner, or other similar design specialist. They may, but are not required to, be licensed or registered in their related field.

Title 14 – Zoning of the San Rafael Municipal Code: Clarify language of duties related to review authority. The draft Title 14 reviewed by the Planning Commission had redundant language in a few instances related to the review authority of the Community and Economic Development Director and Planning Commission. The Planning Commission requested minor edits to clarify the language for readability.

Title 15 – Subdivisions of the San Rafael Municipal Code: There are three references to the Design Review Boad in this title related to hillside subdivisions. No issues were identified with Title 15 from the Planning Commission. Staff has identified a minor modification to Title 15 which would have the Planning Commission retain review authority for retaining walls and foundations over eight feet. Additional detail on the Planning Commission retaining this review authority is described below in staff analysis section.

The attached Ordinance incorporates the Planning Commission's recommendations. The Planning Commission also discussed the need for a comprehensive update to the City's Objective Design Standards including updates to the Downtown Precise Plan form-based code design standards. A comprehensive update to the City's Objective Design Standards is on the Community and Economic Development Department work program and will begin before the end of the calendar year.
For decades, the Design Review Board has provided design feedback for the betterment of development projects in San Rafael. However, in recent years, new state legislation and resulting modifications to the City's Municipal Code mandated more streamlined review of projects.

Furthermore, the City seeks to improve development permit review efficiency, while maintaining valuable design professional feedback on projects, to the extent allowable under State law. Given these considerations, the Planning Commission and staff are recommending appointment of design professionals to the Planning Commission and dissolving the Design Review Board as a separate advisory body.

The proposed composition of the Planning Commission would be structured with five commissioners having expertise in planning, zoning and land use, and four having expertise in design. The proposed membership composition, which aligns with City Council direction, for the newly structured Planning Commission is:

- 4 District Representatives
- 3 At-large Members, including at least one Licensed Architect and one Design Professional
- 2 At-large Alternate Members (Licensed Architects), who shall be eligible to vote when serving in the absence of any of the commission's regular voting members.

In addition, a definition of Design Professional would be added in Title 2- Administration.

Staff recommends this approach for designating eligibility requirements for specific seats because it ensures there will always be one design professional, one licensed architect, four by-district seats, and two alternate member licensed architects. If the City required a specific number of members to be licensed architects without assigning specific seats to that role, there could be a situation where a District Representative member, who doubled as a Licensed Architect, resigns and the City Clerk's office would be required to recruit a District Representative who is also a Licensed Architect, which may be difficult to achieve. By keeping the licensed architect and design professional assigned to the At-Large seats, the City will have the larger, citywide universe of residents to recruit from rather than be limited to recruiting from one district only.

The goal of the proposed Planning Commission composition would be to create a review body that has a deeper understanding in both land use policy and design. This structure creates a well-balanced review authority of seven professionals (with two alternates) with expertise in land use, zoning, planning, and design. One of the seven members would be required to be a licensed architect. One of the seven members would be required to be a design professional. Both alternates would be required to be licensed architects. All nine members would be required to attend Planning Commission meetings, unless they have an excused absence, and attendance will be tracked. In San Rafael, alternate members participate in the same manner as regular members, but do not vote unless a regular member is absent. The at-large alternates would be eligible to vote in the absence of any of the seven regular voting members.

Amend other Municipal Code to Consolidate the Design Review Board into the Planning Commission.

References to the Design Review Board are in Titles 2 - Administration, 14 – Zoning, and 15- Subdivisions of the San Rafael Municipal Code. Below is a brief summary of the proposed amendments by title. The complete strike through/underline version of all the proposed changes for each title are found in the attached Ordinance as Exhibits A, B and C.

Title 2 - Administration

Section 2.16.040 - Planning Commission membership reflects the new composition described in this report and duties of the stricken Design Review Board would be assigned to the Planning Commission.

Section 2.16.120, 2.16.121, and 2.16.122 for Design Review Board Creation, Membership, Powers and duties are proposed to be stricken entirely.

Title 14 - Zoning

Modifications to Title 14 address 37 references to the Design Review Board. The Design Review Board served as an advisory body to the Community and Economic Development Director, Zoning Administrator, Planning Commission, and City Council. The Design Review Board review authorities have been modified to be re-assigned to the Director, Zoning Administrator, and Planning Commission. The Director and Zoning Administrator retained lower-level minor review authorities and the Planning Commission was assigned major higher-level reviews. The expanded composition of Planning Commission would have the design expertise members ensure necessary support Planning Commission decisions related to design.

In addition, the Planning Commission could establish subcommittees for specific projects that are particularly complex.

Chapter 14.25 (Environmental Design Review) is the portion of Title 14 where the most modifications are needed. Like other parts of the Title, the advisory role of the Board was removed in several instances. However, there are two substantial changes: The Conceptual Review portion of the Major Environmental Design Review permit and the Streamlined Review of Certain Residential Projects will both removed in their entirety. With the proposed expanded composition of the Planning Commission, the need to hold a preliminary design consultation or joint study session is no longer needed as these matters will now be considered by the Planning Commission.

Title 15 - Subdivisions

There are three references to the Design Review Boad in this title. As in Title 14, the advisory role was removed. The Planning Commission was presented a previous version of Title 15 that had the Community and Economic Development Director assigned authority to review retaining walls and foundations over eight feet in height and they did not have any recommended edits to the revised Title 15. Upon further staff analysis, staff is recommending that the Planning Commission retain this review authority for retaining walls and foundations over eight feet as this falls within the existing purview of the Planning Commission for hillside subdivisions. The suggested modified language is included in the draft Ordinance.

The proposed Planning Commission changes would require modifications to the Planning Commission By-Laws and Rules and Procedures to reflect the new membership requirements and alternates. If the City Council approves the proposed modifications, the Planning Commission By-Laws and Rules and Procedures would need to be updated to reflect the changes and return to the City Council at a future date for approval. Staff plans to bring proposed modifications to the Bylaws to the City Council for review and consideration at the same meeting as the second reading of this ordinance, on July 15, 2024.

In addition, if approved by the City Council, staff would assess how the newly composed Planning Commission is functioning over the next 6 months and bring a status update regarding its effectiveness in January 2025.

COMMUNITY OUTREACH:

The consolidation of the Design Review Board has been a topic of discussion and exploration since the adoption of the state laws associated with the Housing Crisis Act of 2019. In 2020, City Council adopted a streamlined review for residential projects as a pilot program. The pilot program resulted in fifteen canceled Design Review Board meetings in both calendar year 2022 and 2023. As mentioned above, at the December 18, 2023, City Council was presented options on the consolidation of the Design Review Board and Planning Commission. As part of their feedback to staff as they wanted to adopt the Objective Design Standards, hire a permanent Community and Economic Development Director, and provide the community more time for additional feedback. During the past six months, community feedback has been limited. Responsible Growth Marin (RGM) and a representative from the Federation of San Rafael Neighborhoods provided comments at the Planning Commission hearings. The RGM verbal comments at the Planning Commission hearings and written correspondence (see attachment 5) have supported the concept of a consolidation of the Planning Commission but have identified concerns with the City's Objective Design Standards and the proposed Planning Commission membership suggesting that the proposed nine members of the Planning Commission have voting authority along with providing a definition of a "design professional". As mentioned in the staff report, a comprehensive review of the Objective Design Standards is on the City work program and will begin prior to the end of the calendar year. A definition of a "design professional" has been included in the proposed Ordinance. The voting membership of seven and the makeup and qualifications of the Planning Commission has been recommended by the Planning Commission and consistent with prior City Council direction.

FISCAL IMPACT:

The proposed recommended action would increase efficiency of development review processing and result in operational efficiency of staff support resources dedicated to the Design Review Board. No negative fiscal impacts are anticipated. Furthermore, matters considered by the Design Review Board and Planning Commission are generally funded through application deposits. The consolidation of these two bodies will result in a cost savings for development applicants in some cases. It is anticipated additional training and informational resources will be needed for the on-boarding of new Planning Commissioners. Training funds for the Planning Commissioners would come from the Community and Economic Development department budget resources.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Introduce the Ordinance to amend Title 2 to add design professionals to the Planning Commission and amend Title 14 and 15.
2. Take no action.

RECOMMENDED ACTION:

Introduce the Ordinance to amend Title 2- Administration of the San Rafael Municipal Code to add design professionals to the Planning Commission membership composition, and amend Titles 14-Zoning, and 15-Subdivisions of the San Rafael Municipal Code to dissolve the Design Review Board and transfer existing duties of the Design Review Board to the Planning Commission, or Zoning Administrator, or Director of Community and Economic Development.

ATTACHMENTS:

1. Ordinance Amending Titles 2 – Administration of the San Rafael Municipal Code to Add Design Professionals to the Planning Commission Membership Composition, and Amend Titles 14 – Zoning, and 15 – Subdivisions of the San Rafael Municipal Code, to Dissolve the Design Review Board and Transfer Existing Duties of the Design Review Board to the Planning Commission, or Zoning Administrator, or Director of Community and Economic Development
2. Exhibit A – Title 2 Administration Modifications
3. Exhibit B – Title 14 Zoning Modifications
4. Exhibit C – Title 15 Subdivisions Modifications
5. Comment Letter from RGM 6.15.24

ORDINANCE NO. [XXXX]

AN ORDINANCE AMENDING TITLES 2 – ADMINISTRATION OF THE SAN RAFAEL MUNICIPAL CODE TO ADD DESIGN PROFESSIONALS TO THE PLANNING COMMISSION MEMBERSHIP COMPOSITION, AND AMEND TITLES 14 – ZONING, AND 15 - SUBDIVISIONS OF THE SAN RAFAEL MUNICIPAL CODE, TO DISSOLVE THE DESIGN REVIEW BOARD AND TRANSFER EXISTING DUTIES OF THE DESIGN REVIEW BOARD TO THE PLANNING COMMISSION, OR ZONING ADMINISTRATOR, OR DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

Section 1. **Findings.**

WHEREAS, The Design Review Advisory Committee was created in 1977 by the San Rafael Redevelopment Agency as an informal committee to respond to the high volume of development applications, delays in the processing of applications, and the quality of design review in response to the Downtown Beautification Project and the rapid development of East San Rafael, and

WHEREAS, The Design Review Board was officially established in May 1980 by Ordinance 1502 to formalize the Design Review Advisory Committee, and

WHEREAS, The purpose of the Design Review Board was to serve as an advisory body to the City Council to review and formulate recommendations on development projects requiring environmental and design review permits and on other design matters referred to the Design Review Board by the City Council, Planning Commission, or Community and Economic Development Director, and

WHEREAS, over the last several years, new state legislation, (including Senate Bill 35, the Housing Crisis Act of 2019 and others) has required the City's Municipal Code to support a streamlined reviews of projects, often using only objective design standards and limiting the number of hearings, and

WHEREAS, the Community Development Department presented a staff report in 2019, which included suggestions from several developers to dissolve the Design Review Board and received input from the City Council, and

WHEREAS, in 2020, the City Council approved a staff report recommending that staff pursue an amendment to the San Rafael Municipal Code to streamline development review and created a Design Review Advisory Committee as a one-year pilot program. The following year the pilot program the program was ended, and

WHEREAS, in April 2022 the City Council approved a staff report recommending support for a new one-year pilot program and a zoning text amendment to create a new process entitled, "Streamlined Review for Certain Residential Projects." The outcome of

the pilot program resulted in fifteen canceled Design Review Board meetings in both calendar year 2022 and 2023, and

WHEREAS, on December 18, 2023 the City Council received a report and provided feedback to staff regarding the possible consolidation the DRB and the PC, and

WHEREAS, City Councilmembers provided feedback to staff to return at a future City Council meeting after completing three related tasks: 1) adoption of revised Objective Design Standards, 2) hiring of the permanent Community Development Director, 3) allow more time for the community to provide feedback to staff. Each of these tasks have now been completed, and

WHEREAS, on June 11, 2024, staff brought a draft ordinance amending Title 2, Title 14, and Title 15 before the Planning Commission for review. As the Planning Commission does not have authority over Title 2, the proposed amendments to Title 2 were presented to provide a comprehensive overview of the scope of the proposed changes. The Planning Commission was asked to review the proposed ordinance and forward a recommendation to City Council. After review, public comment, and deliberations, the Planning Commission voted to continue the item to June 18, 2024 to a Special Planning Commission meeting to provide additional time for commissioners and the public to review the proposed amendments, and

WHEREAS, on June 18, the Planning Commission held the continued public hearing and resumed deliberations on dissolution of the Design Review Board. The Planning Commission unanimously voted to forward a recommendation to City Council to introduce the ordinance and recommended modifications to Title 2 to ensure all responsibilities of the Design Review Board are clearly delegated to the Planning Commission and that a definition is included for “design professional, and directed staff to review Title 14 to ensure the amendments clearly identify the review body and any required recommendations, and

WHEREAS, the City Council conducted a noticed public hearing on June 21, 2024, for the purpose of considering the proposed amendments to the Ordinance; and

WHEREAS, the City Council has duly considered all testimony presented at the public hearings, and the evaluation and recommendations from staff; and

WHEREAS, the proposed amendments to the San Rafael Municipal Code set forth herein below are consistent with state law.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Section 2: Amendments to Title 2 of the San Rafael Municipal Code.

Title 2 – Administration, of the San Rafael Municipal Code, is amended as set forth in **Exhibit A**, attached hereto and incorporated herein by this reference (additions in

underline, deletions in ~~strikethrough~~).

Section 3: Amendments to Title 14 of the San Rafael Municipal Code.

Title 14 – Zoning, of the San Rafael Municipal Code, is amended as set forth in **Exhibit B,** attached hereto and incorporated herein by this reference (additions in underline, deletions in ~~strikethrough~~).

Section 4: Amendments to Title 15 of the San Rafael Municipal Code.

Title 15 – Subdivisions, of the San Rafael Municipal Code, is amended as set forth in **Exhibit C**, attached hereto and incorporated herein by this reference (additions in underline, deletions in ~~strikethrough~~).

Section 5. Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 6. Findings of the Zoning Code.

Pursuant to Section 14.27.060 (Findings) of the San Rafael Municipal Code, the proposed amendments of the zoning regulations code under this ordinance:

A. Are consistent with the goals, policies, and actions of the General Plan.

B. Would not be detrimental to the public interest, health, safety, convenience, or welfare of the city for the reasons described in the recitals above;

Section 7. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment, and pursuant to CEQA Guidelines section 15378(b)(5) because the dissolution of the Design Review Board and reassignment of its responsibilities to other City boards and staff members is an organizational/administrative activity that will not result in direct or indirect physical changes in the environment.

Section 8. Effective Date and Publication. This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published and circulated in the City of San Rafael and shall be in full force and effect 30 days after its adoption. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Council members voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the

City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a Special Meeting of the City Council of the City of San Rafael, held on the [Xth] day of [Month] 2024, and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the [Xth] day of [Month] 2024.

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:

KATE COLIN, Mayor

Attest:

LINDSAY LARA, City Clerk

Exhibit A: Modifications to Title 2

Section 2.16.040 - Planning commission—Creation—Membership.
There is created a planning commission for the city, consisting of seven (7) members and two (2) alternate members, not officials of the city, appointed by the mayor with the approval of the city council. Eligibility requirements for members of the planning commission are as follows:

The commission shall be composed of seven (7) regular voting members, comprised of one (1) commissioner from each of the city's four (4) city council electoral districts, and three (3) at-large commissioners.

Requirements for eligibility:

1. District representatives: Each district representative must reside in the district they represent.

2. At-large members: Must reside in city limits. At least one (1) at-large member shall be a licensed architect and at least one (1) at-large member shall be a design professional.

"Design professional" means an architect, engineer, landscape architect, building designer, urban designer, urban planner, or other similar design specialist. They may, but are not required to, be licensed or registered in their related field.

In addition, the commission shall include two (2) alternate members who shall be eligible to vote when serving in the absence of any of the commission's regular voting members. Both alternate members shall reside in city limits and be licensed architects.

Section 2.16.110 - Powers and duties of planning commission.

It shall be the function and duty of the planning commission to act as a decision-making body on ~~quasi-legislative~~ matters including, but not limited to:

- Major subdivisions as delegated to the planning commission under Title 15 of this Code.
- Conditional use permits delegated to the planning commission.
- Environmental and design review permits delegated to the planning commission.
- Appeals made by a lower body and appealed to the planning commission.
- Other matters including physical improvements, ~~conditional use permits~~, or environmental and design permits referred by the community development direction to the planning

commission pursuant to powers and duties set forth in the Municipal Code ~~at the discretion of the community development director~~.

It shall be the function and duty of the planning commission to act as an advisory body to the city council on legislative matters related to but not limited to the following:

- General plan updates and amendments.
- Zoning text and zoning map amendments.
- Other land use matters requiring city council action.

It shall be the duty of the members of the planning commission to inform themselves on matters affecting the functions and duties of the commission and all planning matters, and, to that end, they may attend training and planning conferences and the reasonable traveling expenses incidental to the attendance shall be charged upon the funds allocated to the commission.

The planning commission shall provide professional design analysis, evaluation and judgment as to the appropriateness of development proposals for the use and setting and to recommend approval, approval with conditions, redesign or denial based on design standards and findings of approval adopted by the city council.

The planning commission shall endeavor to promote public interest and understanding of plans developed, and the regulations relating thereto. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record.

~~2.16.120 Design review board—Creation.~~

~~A design review board is created.~~

2.16.121 Design review board membership—Compensation.

The design review board shall consist of a total of five (5) regular members and may include one (1) alternate member appointed by the city council. The design review board members shall be qualified as follows:

1. At least two (2) members shall be licensed architects or licensed building designers;

2. At least one (1) member shall be a licensed landscape architect;

3. At least one of the five (5) members shall have background or experience in urban design;

4. The alternate member may have qualifications in any of the above fields of expertise;

5. All board members shall reside in the city of San Rafael; and

6. In addition to the five (5) council-appointed board members and one (1) alternate member, one (1) planning commissioner shall attend board meetings. This liaison planning commissioner shall be appointed by the commission chairperson. An additional commissioner shall be appointed to serve as an "alternate liaison" in case of absence. The planning commission liaison should be present at all design review board meetings to offer advice and direction to the board on matters of commission concern.

Alternate Member. The alternate member may temporarily fill a vacancy created when a regular member: (1) leaves office prior to completion of the member's term; (2) cannot attend a meeting; or (3) cannot participate on a particular matter due to a conflict of interest.

The city council may establish compensation for members of the design review board by resolution.

2.16.122 Design review board powers and duties.

Subject to the direction and control of the city council, as provided in Section 2.04.030 of this Code, the powers and duties of the design review board shall be:

To serve as an advisory body to the city for the purpose of reviewing and formulating recommendations on all major physical improvements requiring environmental and design review permits, except that an alternate streamlined review process may be allowed for certain eligible projects by ordinance or resolution of the city council.

To serve as an advisory body on other design matters, including minor physical improvements or administrative design permits, referred to the board by the community development director, planning commission or city council.

To provide professional design analysis, evaluation and judgment as to the completeness, competence and appropriateness of development proposals for the use and

~~setting and to recommend approval, approval with conditions, redesign or denial based on design standards adopted by the city council.~~

~~(Ord. No. 2018 , div. 2, 10-3-2022)~~

Title 14
ZONING*

Division I GENERAL PROVISIONS

Chapter 14.01 TITLE, COMPONENTS AND PURPOSES

14.01.010 Title.

This title, Title 14 of the San Rafael Municipal Code, shall be known and cited as "the San Rafael Zoning Ordinance," or, "the zoning ordinance."

(Ord. 1625 § 1 (part), 1992).

14.01.020 Components.

A. The zoning ordinance shall consist of the following components:

1. A map, or set of maps, known as the zoning map, delineating the boundaries of zoning districts within the city of San Rafael;

2. Regulations, known as zoning regulations, governing the use of land, and placement of buildings and improvements within the various classes of districts. Such regulations shall include, but not be limited to, property development standards for each district, parking standards, performance standards, and procedural rules for administering the ordinance.

B. A copy of the zoning regulations and the zoning map, together with a record of all amendments, shall be kept on file with the city clerk and shall constitute the original record. A copy of the zoning regulations and zoning map currently in effect shall also be kept on file in the planning department.

3. The Downtown San Rafael Precise Plan, Form-Based Code and downtown zoning map adopted by separate ordinance and incorporated herein by reference. The Downtown San Rafael Precise Plan and Form-Based Code include certain zoning regulations, governing the land use and placement of building and improvements for those properties within the boundaries of the downtown area, defined by the downtown mixed use district. Where the Downtown San Rafael Form-Based Code is silent on regulations and provisions, the regulations and provisions presented in this Title 14 shall apply.

B. A copy of the zoning regulations and the zoning map, Downtown San Rafael Precise Plan Form-Based code and downtown zoning map, together with a record of all amendments, shall be kept on file with the city clerk and shall constitute the original record. A copy of the zoning regulations and zoning map currently in effect shall also be kept on file in the community development department and office of the city clerk

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. A, 1.1), 8-16-2021)

14.01.030 Purposes.

The San Rafael Zoning Ordinance is adopted to promote and protect the public health, safety, peace, comfort and general welfare. The zoning ordinance is also intended to promote the following more specific purposes:

A. To implement and promote the goals and policies of the San Rafael general plan, so as to guide and manage future development in the city in accordance with such plan;

B. To foster harmonious and workable relationships among land uses;

C. To reduce or remove negative impacts caused by inappropriate location, use or design of buildings and improvements;

D. To protect, strengthen and diversify the economic base of the city;

E. To promote viable commercial and industrial enterprises that provide diverse employment opportunities for city residents;

F. To ensure the adequate provision of light, air, space, fire safety and privacy between buildings;

G. To provide adequate, safe and effective off-street parking and loading facilities;

H. To promote a safe, effective traffic circulation system, and maintain acceptable local circulation system operating conditions;

I. To promote design quality in all development and to preserve and enhance the city's existing historic, architectural, and cultural resources;

J. To preserve and enhance natural resources and key visual features in the community, including the bay shoreline, canal, wetlands, and hillsides;

K. To protect and conserve the city's existing housing stock;

L. To promote housing development to meet housing needs, including affordable housing and special housing needs;

M. To coordinate the service demands of new development with the capacities of existing streets, utilities and public services;

N. To provide for effective citizen participation in decision-making.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.02 ORGANIZATION, APPLICABILITY AND INTERPRETATION

14.02.010 Organization.

A. The Zoning Ordinance is divided into five divisions:

I. General Provisions

II. Base District Regulations

III. Overlay District Regulations

IV. Regulations Applying in All or Several Districts

V. Administrative Regulations

B. Three types of zoning regulations control use and development of property:

1. Land use regulations specify land uses permitted or conditionally permitted in each zoning district, and include special requirements, if any, applicable to specific uses. Land use regulations for base zoning districts are contained in Division II of the zoning ordinance. Land use regulations for overlay districts are contained in Division III of the zoning ordinance. Certain regulations applicable in all or several districts are included in Division IV.

2. Development regulations control the height, bulk, and location of structures on development sites and establish other development standards. Development regulations for each base zoning district are in Division II of the zoning ordinance; development regulations for overlay districts are contained in Division III. Certain development regulations, applicable in more than one base or overlay district, are contained in Division IV. These include site and use regulations, performance standards for certain uses, and parking and sign regulations.

3. Administrative regulations contain detailed procedures for the administration of zoning regulations, including requirements for administrative permits, use permits, variances, exceptions, design review permits, zoning ordinance amendments, appeals and enforcement. Administrative regulations are contained in Division V of the zoning ordinance.

(Ord. 1625 § 1 (part), 1992).

14.02.020 General rules for applicability of zoning regulations.

A. Applicability to Property. Zoning regulations shall apply to all land within the city of San Rafael, including land owned by the city of San Rafael and other local, state or federal agencies, where applicable. Application of regulations to specific lots shall be governed by the zoning map.

B. Applicability to Streets and Rights-of-Way. Public streets, utility and other right-of-ways are the boundaries of the zoning districts. In cases where right-of-ways are abandoned, the centerline shall be used as the district boundary.

C. Compliance with Regulations. No land shall be used, and no structure shall be constructed, occupied, enlarged, altered, or moved in any zoning district except in accord with the provisions of this title.

D. Public Nuisance. Neither the provisions of this title nor the approval of any permit authorized by this title shall authorize the maintenance of any public nuisance, as defined in Chapter 1.16, Nuisance Abatement, and Chapter 1.20, Nuisances.

E. Compliance with Public Notice Requirements. Compliance with public notice requirements prescribed by this title shall be deemed sufficient notice to allow the city to proceed with a public hearing and take action on an application, regardless of actual receipt of mailed or delivered notice.

F. Conflict with Other Regulations. Where conflict occurs between the provisions of this title and any other city code, ordinance, resolution, guideline, or regulation, the more restrictive provision shall control unless otherwise specified in this title.

G. Relation to Private Agreements. This title shall not interfere with or annul any easement, covenant, or other agreement now in effect, provided that where this title imposes greater restriction than imposed by an easement, covenant, or agreement, this title shall control.

H. Application During Local Emergency. The city council may authorize deviations from any provision of this title during a local emergency. Such deviations shall be authorized by resolution of the city council, without notice or public hearing.

I. Severability. If any section, subsection, sentence or phrase of this title is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portions of this title shall not be affected. It is expressly declared that this title and each section, subsection, sentence, and phrase would have been adopted regardless of the fact that one (1) or more other portions of this title would be declared invalid or unconstitutional.

J. Multiple Development Permit Applications. Where a single development project seeks multiple development permit approvals, some of which require planning commission approval and others of which may only be approved by the city council, the following procedure shall obtain. The planning commission shall conduct a public hearing(s) on all such multiple permit applications, together with appropriate environmental documents and shall recommend action to the city council, which shall have exclusive and final approval authority over such multiple permit applications, and which shall pass on the sufficiency of the appropriate environmental documents related to the applications. The provisions of this section shall supersede any zoning ordinance, subdivision ordinance, development application policy and/or provision of the city's environmental assessment procedures manual to the contrary; provided, however, that nothing contained in this section shall modify or affect in any way the public notice and public hearing requirements related to processing of general plan amendments, environmental and design review permit applications, trip permit applications, use permit applications, subdivision applications, zoning ordinance amendment applications, and/or any other discretionary development application, and any findings requirements applicable to the planning commission in connection with such matters shall be requirements of the city council and not the planning commission.

(Ord. 1647 § 1 (part), 1993; Ord. 1625 § 1 (part), 1992).

14.02.030 Applicability of land use and development regulations.

A. Zoning Designation System. Land use and development regulations applicable to specific sites shall be shown on the zoning map by zoning designations consisting of initial letters from the name of each zoning district.

B. Establishment of Base Zoning Districts. Base zoning districts into which the city is divided are established as follows:

Base District Designator	Base District Name	Chapter
R2a	Single-family Residential District Minimum lot size: 2 acres	14.04
R1a	Single-family Residential District Minimum lot size: 1 acre	14.04
R20	Single-family Residential District Minimum lot size: 20,000 sq. ft.	14.04
R10	Single-family Residential District Minimum lot size: 10,000 sq. ft.	14.04
R7.5	Single-family Residential District Minimum lot size: 7,500 sq. ft.	14.04
R5	Single-family Residential District Minimum lot size: 5,000 sq. ft.	14.04
DR	Duplex Residential District 2,500 sq. ft. per dwelling unit	14.04

MR5	Multifamily Residential District (Medium Density) 5,000 sq. ft. per dwelling unit	14.04
MR3	Multifamily Residential District (Medium Density) 3,000 sq. ft. per dwelling unit	14.04
MR2.5	Multifamily Residential District (Medium Density) 2,500 sq. ft. per dwelling unit	14.04
MR2	Multifamily Residential District (Medium Density) 2,000 sq. ft. per dwelling unit	14.04
HR1.8	Multifamily Residential District (High Density) 1,800 sq. ft. per dwelling unit	14.04
HR1.5	Multifamily Residential District (High Density) 1,500 sq. ft. per dwelling unit	14.04
HR1	Multifamily Residential District (High Density) 1,000 sq. ft. per dwelling unit	14.04
GC	General Commercial District	14.04
NC	Neighborhood Commercial District 1,800 sq. ft. per dwelling unit	14.04
O	Office District	14.05
C/O	Commercial/Office District 1,000 sq. ft. per dwelling unit	14.05
R/O	Residential/Office District 1,000 sq. ft. per dwelling unit	14.05
FBWC	Francisco Boulevard West Commercial District	14.05
DMU	Downtown Mixed Use District. See Downtown San Rafael Precise Plan Form-Based Code and Downtown Zoning map adopted by separate ordinance.	14.05
I	Industrial District	
LI/O	Light Industrial/Office District	
CCI/O	Core Canal Industrial/Office District	
LMU	Lindaro Mixed Use District	
PD	Planned Development District	
M	Marine District	
P/QP	Public/Quasi-Public District	
P/OS	Parks/Open Space District	14.10
W	Water District	14.11

C. Establishment of Overlay Zoning Districts. Overlay zoning districts, one or more of which may be combined with a base district, are established as follows:

Overlay District Designator	Overlay District Name	Chapter

-H	Hillside Development Overlay District	14.12
-WO	Wetland Overlay District	14.13
-E/A	Eichler/Alliance Overlay District	14.14
-C	Canalfront Review Overlay District	14.15

(Ord. 1838 § 15, 2005; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 2, 6-21-2010; Ord. No. 1996 , div. 2(Exh. A, 2.1), 8-16-2021)

14.02.040 Rules for interpretation—Recordkeeping.

A. Zoning Map. Where uncertainty exists regarding the boundary of a zoning district, the following rules shall apply:

1. District boundaries shown as approximately following the property line of a lot shall be construed to follow such property line.

2. On unsubdivided land, or where a district boundary divides a lot, the location of the district boundary shall be determined by using the scale appearing on the zoning map, unless the boundary location is indicated by dimensions printed on the map.

3. Any parcels inadvertently not zoned shall be rezoned consistent with the general plan land use designation and surrounding zoning classifications.

B. Land Use Categories. Land use categories include uses having similar characteristics, but do not specify every use or activity that may appropriately be within the category. The planning director shall determine whether a specific use shall be deemed to be within one or more use category or not within any use in this title. The planning director may determine that a specific use shall not be deemed to be within a use category, whether or not named within the classification, if its characteristics are substantially incompatible with those typical of a specific use. Any new use, or any use that cannot be clearly determined to be in an existing use classification, may be incorporated into the zoning regulations by a zoning ordinance text amendment, as provided in Chapter 14.27, Amendments.

C. Zoning Regulations. Where uncertainty exists regarding the interpretation of any provision of this title or its application to a specific site, the planning director shall determine the intent of the provision. Where general plan policy indicates a site-specific use not otherwise allowed by the zoning district, that use may be allowed with a use permit, subject to the approval of the planning commission.

D. Appeals. An interpretation of the zoning map, use classifications, or zoning regulations by the planning director may be appealed to the planning commission, as provided in Chapter 14.28, Appeals.

(Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

14.02.050 Effect of this title on approved projects and projects in process.

A. Use permits, variances, design permits, and tentative subdivision maps which are valid on the effective date of the ordinance codified in this title shall remain valid until their expiration date. These projects can be built in accord with the development standards in effect at the time of approval, provided that the use permit or design approval is valid at the time building permits are issued and that such permit is subject to any time limits imposed pursuant to Title 12, Building Regulations.

B. No provision of this title shall require any change in the plans, construction or designated use of any structure for which a building permit has been issued prior to the effective date of the ordinance codified in this title, or any subsequent amendment of this title.

C. Any reapplication for an expired permit must meet the standards in effect at the time of reapplication.

D. Any modification of a use permit or variance, or any major modification of an environmental and design review permit or building permit issued prior to the date of the ordinance codified in this title must conform to the standards in effect at the time of the revised application.

E. Any minor modification of an environmental and design review permit or building permit issued prior to the date of the ordinance codified in this title may be subject to the standards in effect at the time of the revised application, as determined by the planning director.

F. Any extension of a use permit must meet the standards in effect at the time of reapplication.

G. An environmental and design review permit, or of a variance which has been approved as part of an environmental and design review permit, may be extended under the standards in effect at the time of approval up to two (2) years after the effective date of the ordinance codified in this title. Extensions of such permits after two (2) years of the effective date must meet the standards in effect at the time of reapplication.

H. Projects for which public hearings are not complete prior to the effective date of the ordinance codified in this title shall be subject to the use regulations, development standards, and all other requirements of this title.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.03 DEFINITIONS

14.03.010 Purpose and applicability.

The purpose of this chapter is to promote consistency and precision in the application and interpretation of zoning regulations. The meaning and construction of words and phrases defined in this chapter shall apply throughout Title 14, except where the context or use of such words or phrases clearly indicates a different meaning or construction intended in that particular case.

(Ord. 1625 § 1 (part), 1992).

14.03.020 Rules for construction of language.

A. The particular shall control the general.

B. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

1. "And" indicates that all connected words or provisions shall apply.

2. "Or" indicates that the connected words or provisions may apply singly or in any combination.

3. "Either...or" indicates that the connected words or provisions shall apply singly but not in combination.

C. In case of conflict between the text and any illustration, the text shall control.

D. The word "shall" is mandatory and not discretionary. The words "may" and "should" are permissive and discretionary.

E. References in the masculine and feminine genders are interchangeable.

F. "Including, but not limited to" means that the definition is applicable to the examples that are cited, and to other examples that are not cited, which are deemed to be similar in purpose and consistent with the intent of the definition.

Unless the context clearly indicates the contrary, words in the present and the future tense are interchangeable, and words in the singular and plural are interchangeable.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 3, 6-21-2010)

14.03.030 Definitions.

"A.M. peak hour" means the number of vehicular traffic movements entering and exiting a site during the highest volume consecutive sixty (60) minutes in the a.m. peak period from seven a.m. (7:00 a.m.) to nine a.m. (9:00 a.m.) on the local street system.

"Accessory dwelling unit" ("ADU") means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. The ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An ADU also includes the following: an efficiency unit, a manufactured home, as defined in Section 18007 of the Health and Safety Code. A junior accessory dwelling unit is considered an ADU subject to additional defined standards. An ADU is not considered to exceed the allowable density for the lot upon which it is located. An ADU is considered a residential use consistent with the general plan and zoning designation for the lot.

"Accessory structure" means a structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building and use that requires a foundation or structural support on the ground. Accessory structures include, but are not limited to, garages/carports, gazebos, greenhouses, storage sheds, freestanding solar panel arrays, small wind energy systems, cabanas, studios, sport courts, spas, hot tubs and pools. Accessory structure would not include a "tree house" that does not have a foundation support on the ground or require a building permit. See also "Accessory dwelling unit".

"Accessory use" means a use clearly subordinate or incidental and directly related to a permitted use or conditionally permitted use. The general thresholds for considering whether a use is an accessory use include whether the: a) floor area dedicated to the use is less than twenty-five percent (25%) of the total area; b) amount of business, revenue or activity generated by the use is less than twenty-five percent (25%) of the main use; c) hours of operation and intensity of operation are similar to the primary use; and d) uses are composed in separate and demised tenant spaces.

"Addition" means a structure added to the original structure at some time after the completion of the original.

"ADU" see definition for "Accessory Dwelling Unit."

"Affordable housing unit(s)" means those dwelling units as described herein which are required to be rented at affordable monthly rents to very-low, low, and moderate-income households, or purchased at an affordable sales price to low and moderate-income households.

"Affordable monthly housing cost" for ownership units means that no more than thirty-three percent (33%) of household income is required for total housing cost including principal and interest payment on the mortgage, private mortgage insurance payments, property taxes, property insurance and homeowners' association dues.

"Affordable monthly rent" means the monthly rental rate plus a utility allowance for tenant-paid utilities as determined by the Marin Housing Authority that together does not exceed thirty percent (30%) of the monthly income of the specified income level.

"Affordable sales price" means the sales price for an affordable ownership unit as set forth in the below market rate housing agreement between the city and the developer.

"Alteration" means any change or modification in construction.

"Animal care facility" means a use providing grooming, housing, medical care, or other services to animals, including veterinary services, animal hospitals, overnight or short-term boarding ancillary to veterinary care, indoor or outdoor kennels, and similar services.

"Animal keeping" or "keeping of animals" means the ownership, possession, custody, control or sheltering of an animal for fourteen (14) or more consecutive days, by any person on private property for noncommercial purposes.

"Antenna" means any system of poles, panels, rods, reflecting dishes, wires or similar devices used for the transmission or reception of electromagnetic waves or signals.

"Antenna structure" means an antenna array and its associated support structure, such as a monopole or tower.

"Antenna, building-mounted" (also known as facade-mounted) means any antenna mounted to a building or rooftop equipment screen that transmits or receives electromagnetic signals.

"Antenna, ground-mounted" means any antenna which is attached or affixed to a freestanding support structure which has its base placed directly on the ground, specifically including, but not limited to, monopoles or towers.

"Atrium" means a covered entryway or central courtyard, typically open through two (2) or more floor levels, which is nonleasable space and which does not include enclosed stairways, elevators, hallways or similar area.

"Awning sign" means a sign placed on the face or surface of an awning.

"Banks and financial services" means financial institutions including uses such as banks and trust companies, check cashing, credit unions, foreign currency, holding (but not primarily operating) companies, home loan services, lending and thrift institutions, money wiring, mortgage brokers, other investment companies, securities/commodity brokers, contract brokers and dealers, security and commodity exchanges, and vehicle finance (equity) leasing.

"Banner" means 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.

"Bed and breakfast inn" means establishments offering lodging on a less than weekly basis, typically in a converted single-family dwelling, with incidental eating and drinking service for lodgers only provided from a single kitchen.

Billiards. See "Poolhall."

"Boarding house" means a structure or portion thereof where rooms and/or meals for three (3) or more nontransient guests are provided for compensation. Such rooms do not include complete cooking and sanitary facilities. Includes single-room occupancy development. Excludes the bona fide sharing of the rent or ownership costs of housing and/or the sharing of expenses for meals.

"Boat docking facility" means a fixed structure, typically made of wood or concrete, connected to land which is used to secure boats and provide dry pedestrian access to land.

"Bonus trip allocation" means nonparcel-specific "extra" trips that are reserved for developments providing significant amounts of affordable housing or needed neighborhood, serving commercial or other specified uses for public benefit.

"Brew pub" means an establishment where beer, ale or malt liquors are produced and served to customers. May also include restaurant services.

"Buffer" means a land area used to separate and/or protect one use from another, or to shield or block noise, lights, or other nuisances.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Building stepback" means a limitation on the height of structures within the building envelope which is required to avoid excessive building bulk viewed from downhill lots and front and street side elevations.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

"Cannabis delivery" means the commercial transfer of medicinal cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform. This sort of use is regulated by the State of California as a Type 9 Cannabis license.

"Cannabis distribution distributor" purchases, sells, arranges for testing, conducts quality assurance review of packaging and labeling, stores/warehouses and transports cannabis goods between medicinal licensees.

"Cannabis manufacturing" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. Manufacturing includes the processes of extraction, infusion, packaging or repackaging, and labeling or relabeling of cannabis products.

"Cannabis testing/lab" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products (either medicinal and adult use) as further defined in SRMC 10.96.040. This sort of use is regulated by the State of California as a Type 8 Cannabis license.

"Caretaker's residence" means a dwelling unit on the site of a commercial, industrial, public or semi-public use, occupied by a guard or caretaker.

"Carport" means a roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than two (2) sides.

"Changeable copy sign" means a sign which, in part or whole, provides for periodic changes in the sign copy. Examples include signs for an auditorium, theater, church, meeting hall or similar use having changing programs or events, but do not include electronic reader board signs. Signs on which the only change is a periodic price change for the product or products customarily sold on premises and on which the location, size and color of the numbers remain constant are not considered changeable copy signs.

"City" means the City of San Rafael.

"Clinic" means a place where patients are studied or treated by physicians specializing in various ailments and practicing as a group; the dispensary or outpatient department of a hospital or medical school, where patients are treated free or for a small fee; a place where a group of physicians are available for extended hours, on a drop-in basis with no regular patients.

"Club" means a nonprofit association of persons, whether incorporated or unincorporated, organized to pursue common goals, interests or activities, but not including a group organized solely or primarily to render a service customarily carried on as a business.

"Cluster" means a development technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and/or preservation of environmentally sensitive features.

"Cocktail lounge" means a use providing preparation and retail sale of alcoholic beverages, on a licensed "on-sale" basis, for consumption on the premises, including taverns, bars and similar establishments where food service is subordinate or accessory to the sale of alcoholic beverages. Cocktail lounge does not include a full service alcohol or beer and wine bar that is established and operated as an accessory use within a full-service restaurant, provided that the bar is integrated within and open to the main dining area, and operating during the same hours as the primary food service use.

"Coin-operated amusement device" means a machine which, upon the insertion of a coin or similar, operates or may be operated for use as a game, contest or amusement of any description, or which may be used for any such game, contest or amusement, and which contains no automatic payoff device for the return of money, coins, tokens or merchandise.

"Co-location" means the location of two (2) or more wireless communication facilities on a single support structure or otherwise sharing a common location. Co-location shall also include the location of wireless communication facilities with other types of preexisting structures, including, but not limited to, water tanks, light standards, outbuildings and other utility facilities and structures.

"Community development director" means the head of the community development department and is synonymous with "planning director," as used in this code.

"Community garden" means any piece of land gardened by a group of people, utilizing either individual or shared plots on private or public land. The land may produce fruit, vegetables, and/or ornamentals. Community gardens may be found in neighborhoods, schools, connected to institutions such as hospitals, and on residential housing grounds subject to defined standards, as specified in Section 14.16.286 of this title. A community garden shall be operated by a public entity or non-profit organization.

"Contractor's yard" means a use providing storage of equipment, materials and vehicles for contractors who are in trades involving construction activities which include, but are not limited to, plumbing, painting, electrical, roofing and carpentry, including incidental services and offices. Contractor's storage yards may include the maintenance and outdoor storage of large construction equipment such as earthmoving equipment, cranes and outdoor storage of building materials.

"Convenience store" means a sales establishment occupying a public retail sales area of generally up to five thousand (5,000) gross square feet, for purpose of selling prepackaged food and beverage products and other retail merchandise oriented to convenience and travelers' shopping needs. Convenience stores are distinguishable from "grocery stores and supermarkets" in that they carry a limited range of items and are typically contained in a smaller retail space (generally, less than five thousand (5,000) gross square feet). See "mini-market" definition for a retail store operated in conjunction with a gasoline station with a retail sales area that is less than one thousand (1,000) gross square feet in size.

"Creek" means a perennial, intermittent or ephemeral open watercourse, which has a defined bed and bank and connect to other water bodies, as shown on the San Rafael General Plan watershed and creeks map. Creek also includes unmapped tributaries to the bay to the point at which they have a defined bed and bank. Creek is distinguishable from a "drainageway."

"Cut" means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below the original ground surface or excavated.

"Day care facility" means an existing or proposed building, equipment and any accessory structures in which there are programs and personnel licensed by the state for direct child or adult care services, including, but not limited to, shelter, food, education and play opportunities, for fewer than twenty-four (24) hours per day. There are three (3) basic types or designations of child or adult care facilities:

1. Family day care home, small (a dwelling unit licensed for the care of eight (8) or fewer children or adults), or as otherwise defined by state law;
2. Family day care home, large (a dwelling unit licensed for the care of nine (9) to fourteen (14) children or adults), or as otherwise defined by state law;
3. Day care center (a facility licensed for the care of more than fourteen (14) children or adults).

"Day services center" means a program which provides a wide variety of counseling, referrals, and other nonmedical, nonresidential services daily to more than twelve (12) persons.

"Deck" means a platform requiring ground supports which is roofless and not enclosed, and which is commonly used for recreation purposes.

"Density bonus" means concessions or incentives for additional housing density beyond such regulations contained for residential development within the San Rafael Municipal Code or the San Rafael general plan, for projects that are consistent with the requirements of Government Code Section 65915 and/or Section 14.16.030(H)(1) of the San Rafael Municipal Code.

"Design professional" see definition in San Rafael Municipal Code Section 2.16.040.

"Development" or "development project" means any subdivision, other division of land or condominium conversion; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; and any change in use or extension of the use of land.

"Directional sign" means any sign, which is designed and erected solely for the purpose of traffic or pedestrian direction and which is placed on the property to provide direction to the public. Such a sign contains no advertising copy.

"Directory sign" means an identification sign listing the tenants of a building, or the bulletin board of a public, charitable, religious, or fraternal institution used to display announcements relative to meetings and activities to be held on the premises and/or displaying the names of the officers of the organization.

"Discount store" means a building or group of buildings typically providing regional market-base discount sales of retail items.

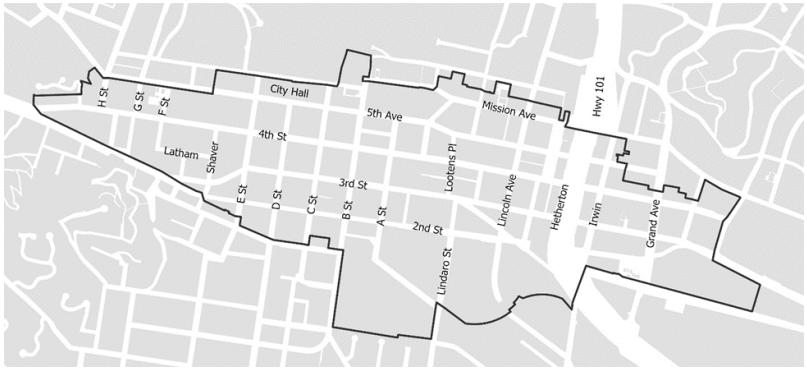
"Dispensary" means a storefront or facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale.

"Displaced person" means any person: (1) who lawfully occupies rental property as a primary place of residence; (2) whose continued occupancy of the rental property would be inconsistent with a proposed development project; and (3) whose tenancy is terminated by the owner, whether by the owner's termination of the lease or tenancy or the owner's refusal to renew the lease or tenancy, unless the tenancy is terminated because of a default under the lease by the tenant.

"Distribution" means a use engaged primarily in delivery of manufactured products, supplies and equipment, including incidental storage and sales activities.

"Double-faced sign" means a sign consisting of two (2) sign faces, which are placed back-to-back, so that only one sign face is visible from any one location.

"Downtown" encompasses those properties and parcels within the boundaries of the downtown mixed use (DMU) district. The downtown mixed use district encompasses the geographic area presented on the following map:



"Downtown parking district" means the area which encompasses the boundary generally between Hetherton and E Streets, and Second Street and Fifth Avenue, as shown on map contain in the Downtown San Rafael Precise Plan adopted by separate ordinance.

"Drainageway" means:

(1) An open swale or localized depression that lacks defined banks, which transports stormwater to creeks, wetlands or water bodies such as the bay; and

(2) Man-made open ditches or channels (typically with low habitat value) which drain developed properties. Drainageway is distinguishable from a "creek."

"Driveway" means a private roadway providing vehicular access to dwelling(s), structure(s) or parking spaces.

"Dwelling unit" means one or more rooms designed, occupied or intended for occupancy as separate living quarters for the exclusive use of one household, with a kitchen, sleeping facilities, and sanitary facilities.

Dwelling unit, second. "Second dwelling unit" means an additional, separate dwelling unit meeting defined standards, as specified in Section 14.16.285 of this title, and located on the same lot as a single-family dwelling within a residential district.

"Egress" means an exit.

Emergency shelter for the homeless, permanent. "Permanent emergency shelter for the homeless" means a permanent residential facility operated by a provider which provides emergency housing or temporary accommodations year-round to homeless persons and/or families on a nonprofit basis, and which meets the standards for shelters contained in this title. A facility under this section does not include temporary shelter provided by general relief in the wake of a disaster where assistance by the American Red Cross and/or federal disaster relief is provided.

Emergency shelter for the homeless, temporary or rotating. "Temporary or rotating emergency shelter for the homeless" means a nonprofit temporary or emergency housing facility for individuals and families authorized to operate up to six (6) consecutive months. A facility under this definition does not include temporary shelter provided by general relief in the wake of a disaster where assistance by the American Red Cross and/or federal disaster relief is provided.

"Emergency shelters" means housing as defined under the State Health and Safety Code Section 50801(e); i.e., with minimal supportive services for homeless person(s) that is limited to occupancy of six (6) months or less by a homeless person. No individual or household may be denied emergency shelter because of inability to pay.

Entertainment, live. See "Live entertainment."

"Equipment cabinet" means a cabinet, structure, or building used to house equipment associated with a wireless communication facility.

"Equivalent alternative action" means actions performed by a developer that the city council, in its sole discretion, determines will further the affordable housing goals of the city to an equal or greater extent than compliance with the requirements herein.

"Excavation" means removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Family day care, large. See "Day care facility."

Family day care, small. See "Day care facility."

"Fast food restaurant" means a facility which specializes in rapidly prepared foods and beverages, served with dispensable (such as paper or plastic) plates and utensils for on- or off-site consumption. Table service is generally limited to delivery of counter-ordered meals and busing. Service to persons in vehicles may be a function of fast food restaurants. Fast food restaurants have high customer volume and high traffic generation, plus one or more of the following elements:

1. Drive-through service;
2. Late/early hours of operation (open after eleven p.m. (11:00 p.m.) or before six a.m. (6:00 a.m.));
3. Potential litter problems;
4. Noise (for example, from drive-through intercoms);
5. Potential outdoor gathering places.

"Federal Communication Commission (FCC)" is an independent United States government agency responsible for the regulation of interstate and international communications by radio, television, wire, satellite and cable.

"Fence" means an artificially constructed barrier of any material or combination of materials serving to enclose or screen areas of land.

"Fill" means earth or any other substance or material, including pilings, placed or deposited by humans.

"Financial services" see "Banks and financial services"

"Firearms dealer" means any person licensed to sell, lease or transfer firearms pursuant to California Penal Code Section 12071(a)(1).

"Fitness/recreation facility" means facilities providing equipment and areas for exercise, training, recreation and classes for individuals, groups or both. Examples of these facilities include, but are not limited to: health clubs, gymnasiums, indoor sports facilities, rock climbing facilities, etc. These facilities are primarily drop-in facilities, and may include accessory instructional uses. See "School, specialized education and training" definition for uses primarily involving instructional or educational training.

"Flashing sign" means any sign which is perceived as an intermittent or flashing light. Time and temperature signs are excluded from the category of flashing signs.

"Floor area ratio (FAR)" means the total building square footage (gross floor area) divided by the land area, as further defined in Section 14.16.150, Floor area ratios applicable to nonresidential development.

"Food service establishment" means a business serving food and/or beverages such as a restaurant, café, coffee shop, cocktail lounge or brew pub. Food service establishment is distinguishable from a "food service establishment, high volume" and "fast food restaurant" by volume, food type and/or service.

Food service establishment, high volume. "High volume food service establishment" means a food service establishment over one thousand (1,000) square feet in size which serves more than two hundred (200) lunches daily or equivalent volume at other mealtimes.

"Fortunetelling" means the telling of fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty or force.

"Fractional unit" occurs when the required percentage of affordable housing units results in less than one unit or a combination of affordable housing units and less than one full unit. For example: total number of new units twelve (12) multiplied by the required affordable housing units fifteen percent (15%) results in one full unit and a .80 fractional unit or eighty percent (80%) of a full unit.

"Freestanding sign" means any sign that is designed and constructed as a stand alone structure, which is self-supporting on the ground, not affixed to or attached to a building. Types of freestanding signs include pole or pylon signs and monument signs.

"Frontage, business or use" means the front face or front elevation of a building containing a single business or use that is most parallel to and fronts on a public street, public right-of-way, public parking lot or public parking garage. Frontage width is measured in linear feet.

"Game arcade" means a use with five (5) or more coin-operated amusement devices.

"Garage" means a building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles. Includes public and commercial parking facilities. See also "Carport."

"Gasoline station" means a facility which dispenses automotive fuel to the general public.

"Grade" means the point of elevation as determined by the methods prescribed in the latest edition of the Uniform Building Code adopted by the city.

"Grading" means any cutting or excavation, filling or combination thereof.

"Grocery store and supermarket" means a retail business where the majority of the floor area that is open and accessible to the public is occupied by produce, food and beverage products, and household items that are packaged for preparation and consumption for daily living needs. Grocery stores and supermarkets are distinguished from "convenience stores" in that they typically contain a retail floor area greater than ten thousand (10,000) gross square feet. Smaller grocery stores may occupy a retail floor area between five thousand (5,000) and ten thousand (10,000) gross square feet. Supermarkets generally offer a greater variety of products and household items, and may also include accessory uses within the retail sales area including, but not limited to, a pharmacy, café, or financial services.

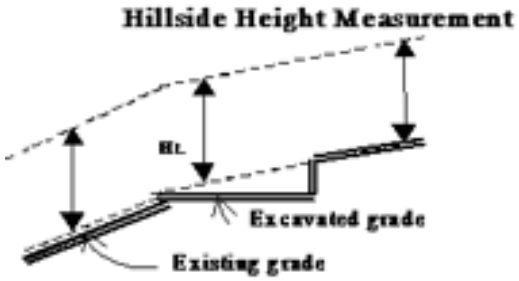
Gross building square footage, hillside areas. "Hillside areas gross building square footage" means the sum of all enclosed or covered areas of each floor or all structures on the site, measured to the exterior of the enclosing walls, columns or posts including basement areas, unfinished attic or loft spaces and other areas capable of being finished into habitable space as determined by the California Building Code; garages and carport areas six feet (6') or more above the natural grade, measured to the exterior face of surrounding walls, column, or posts; other roofs or covered areas supported by walls, columns or posts and capable of being enclosed, measured to the exterior face of surrounding walls, columns or posts; roof penthouses; and accessory structures greater than one hundred twenty (120) square feet in floor area. Excluded are areas permanently open to the sky; exterior areas under roof eaves, trellises or cantilevered overhangs and attic spaces and underfloor spaces that are not capable of being finished into habitable space.

"Gun shop" means an establishment or person engaged in the sale, lease or transfer of firearms pursuant to California Penal Code Section 12071(a)(1).

"Handicapped" means a person with a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such an impairment or being regarded as having such an impairment, but such term does not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802) as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988).

"Height, downtown mixed use district" means the height of all structures, fences and walls located within the downtown mixed use district measured in accordance with the methodology presented in the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance.

"Height, hillside" means the height of all structures, fences and walls measured vertically from the existing (e.g., natural) grade to the uppermost point of the roof edge, wall parapet, mansard or other feature above the existing grade at any given point. See illustration below.



"Height, non-hillside " means the vertical distance above a reference datum measured to

1) The highest point of the coping of a flat roof or to the deck line of a mansard roof or

2) To the average height of the highest pitched roof (see Figure 3 for various roof types.) The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall (Figure 1) of the building when such sidewalk or ground surface is not more than ten (10) feet above the lowest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior of the building (see Figure 2A).

2. An elevation ten (10) feet higher than the lowest grade when the highest adjoining sidewalk or ground surface described in Item 1 above is more than ten (10) feet above lowest grade (see Figure 2B).

The height of a stepped or terraced building may be determined based on the existing grade condition at each distinctive building segment, as determined by the community development director.

Figure 1
Determination of reference datum

Figure 2
Building height by Building Code provisions

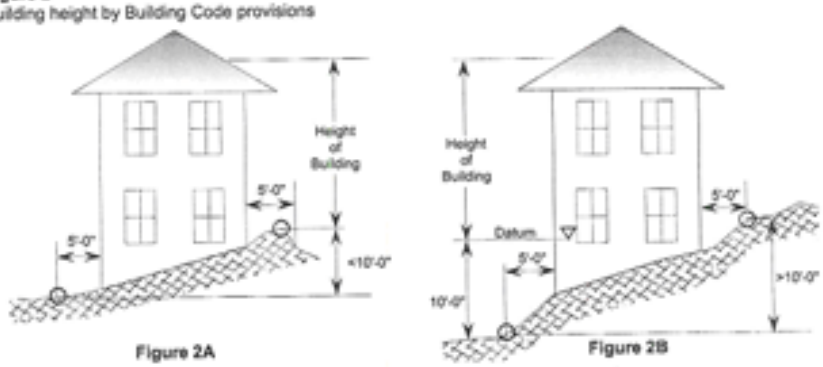
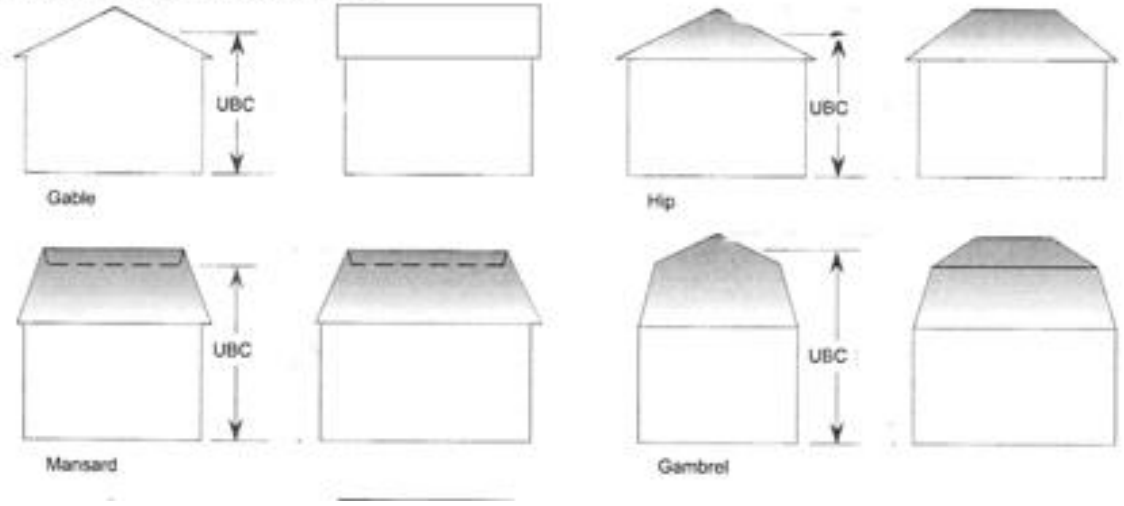


Figure 2A

Figure 2B

Figure 3
Building height for various roof types



"High top of creek bank" means the side of a creek, the top of which shall be the topographic line roughly parallel to the creek centerline, where the side slopes intersect the plane of the ground traversed by the creek. Where the banks do not distinguishably end, the surrounding country being an extension of the banks, the top of such banks shall be determined by the planning director.

"Home occupation" means an accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one (1) or more persons, all of whom reside within the dwelling unit, as further defined in Section 14.16.220, Home occupations, but not including those facilities defined as short-term rentals in Section 14.03.030 of this Code.

"Hospital" means a facility providing medical, psychiatric or surgical services for sick or injured persons primarily on an in-patient basis, including facilities for out-patient and emergency treatment, diagnostic services, training, research and administration, and services to patients, employees or visitors.

"Hotel" means any building or portion thereof designed for compensation, primarily for the accommodation of transient travelers, with eating, drinking, banquet and recreational facilities related to the hotel use, but not including those facilities defined as residential care facilities.

"Household" means one or more persons, whether or not related by blood, marriage or adoption, jointly occupying a dwelling unit in a living arrangement characterized by the sharing of common living areas, including area and facilities for food preparation. Indicia of a separate household include, but are not limited to, one (1) or more of the following: a separate exterior entrance, a separate address, a separate mail box designation, a separate utility service or meter, a separate cable television line, and the existence of a rental advertisement for the separate living quarters immediately preceding their occupancy.

"Identification sign" means a sign which serves to identify only the name, address and lawful use of the occupant, business or use upon which the sign is located, and which may include the emblem or insignia when used by an organization.

"Improvement" means the construction, alteration and repair of all buildings, structures and facilities permanently affixed to real property and appurtenances thereto.

"Informational sign" means a sign which is designed and erected solely for the purpose of communicating information for the safety or convenience of the public. Examples of such signs include no smoking, restrooms or telephone.

"Ingress" means access or entry.

"JADU" see definition for "Junior Accessory Dwelling Unit."

"Junior accessory dwelling unit" ("JADU") means an accessory dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within the walls of a proposed or existing single-family residential space and meets the additional standards provided in section 14.16.285 C.2.

"Kiosk" means a small, freestanding accessory structure used for retail or service uses (see also Section 14.16.225).

"Kitchen" means any portion of a structure equipped, used or intended to be used for the storage, preparation, and cooking of foods with proximal arrangement of two (2) or more of the following: (a) sink (other than that associated with a bathroom), (b) food storage and preparation areas, (c) refrigerator, or (d) cooking appliances including a stove, microwave oven, convection oven, cooking burners or similar appliances. The storage of food in a pantry, freezer or refrigerator located in any area of the structure shall not, by itself, classify such area of the structure as a kitchen.

"Laboratories" means establishments providing medical or dental laboratory services or establishments providing photographic, analytical, or testing services.

"Landscaping" means an area devoted to or developed and maintained with native or exotic plantings including lawn, ground cover, gardens, trees, shrubs or other plant materials; as well as entry areas, courtyards and similar with decorative outdoor landscape elements such as pools, fountains, sculpture, seating and paved or decorated surfaces (excluding driveways, parking, loading, storage areas and sidewalks outside of the entry, courtyard or large planted areas).

"Level of service (LOS)" means a standard qualitative circulation measure describing traffic-operating conditions in terms of speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. Six (6) levels of service are defined, from LOS A, representing the best operating conditions, to LOS F, representing the worst.

"Live entertainment" includes the following activities where they occur as part of a commercial use three (3) or more times during a calendar year:

1. Bands, dance bands or disc jockeys;
2. Performances (comedy, music, theatrical, dance) by one or more persons, regardless of whether performers are compensated.

A single performer, such as a singer or pianist providing background music (without billing or advertisement) at a restaurant or bar is exempt from this definition.

"Live/work quarters" means an area comprised of one or more rooms that accommodates joint work activity and residential occupancy, and which includes residential occupancy and work activity, and which includes: (1) working space reserved for and regularly used by one or more of the persons residing therein, and (2) cooking, sleeping and sanitary facilities. All living spaces shall be contiguous with and made an integral part of the working space with direct access between living and working areas.

"Loading space" means an off-street space or berth used for the loading or unloading of commercial vehicles.

Lodges. See "Clubs."

"Lot" means a specific area of land, the boundaries of which have been established according to the legal requirements in effect at the time the lot was created or which has been issued a certificate of compliance.

"Lot area" means the area of the property within the property boundaries as described in the recorded grant deed including any easements, and unaccepted offers and dedications of rights-of-way. Consistent with Section 15.06.030 (subdivision design standards), the panhandle portion of a flag lot that is primarily used and intended for access shall not be included in lot area for purposes of development and application of development standards.

"Lot coverage" means that portion of the lot covered by buildings, including stairways; covered walkways; covered patios; covered parking structures; covered decks or uncovered decks over thirty inches (30") in height; and detached recreational and storage structures that are greater than one hundred (120) square feet in size. Lot coverage excludes residential fences, ground level landscaped areas, walkways and paved areas, uncovered patios and decks thirty inches (30") or less in height, uncovered recreational and uncovered parking and driveway areas, detached garden sheds, tool sheds, playhouses and similar detached accessory structures that do not require a building permit and are not greater than one hundred twenty (120) square feet in size and no taller than eight feet (8') in height, and portions of structures that are located below grade.

"Lot depth" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line.

"Lot line", see "Property line."

"Lot width" means lot area divided by lot depth.

Lot, corner. "Corner lot" means a lot bounded on two (2) or adjacent sides by street lines, providing that the angle of intersection does not exceed one hundred thirty-five degrees (135º).

"Lot, panhandle/flag" means a lot that is served by a narrow strip of land that is primarily intended and used for gaining access to a major portion of the lot or parcel. See Title 15, subdivisions, for regulations addressing the formation of a flag or panhandle lot.

Lot, reverse corner. "Reverse corner lot" means a corner lot, where the rear yard of a lot is adjacent to the side yard of an adjoining lot.

Lounge, cocktail. See "Cocktail lounge."

Low income. See "Affordable housing."

"Low income household" means households earning less than eighty percent (80%) of county median income according to the latest Federal Housing and Urban Development Department income limits table (or similar table provided by the Marin Housing Authority), or as otherwise defined by resolution of the city council.

"Mansard sign" means any sign attached to or supported by a sloped roof element such as a mansard or gable.

"Manufactured home" means a single-family detached structure that is manufactured under the authority of 42 U.S.C. Section 5401, the National Manufactured Home Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes or mobile homes.

"Marina" means a facility for storing, servicing, fueling, berthing and securing and launching of private pleasure craft or commercial boats, and which may include the sale of fuel and incidental supplies for the boat owners, crews and guests.

"Market rate housing units" means dwelling units in a residential or mixed-use project that are not affordable housing units.

"Marquee sign" means any sign that is on top, attached to the face of or suspended below a marquee, canopy, cantilevered covered walkway, or arcade, whether parallel to or at right angles with the face of the building.

"Massage" and/or "bodywork" means the skillful application of touch, including, but not limited to, pressure, stroking, kneading, compression on, or movement of the external surfaces of the body by a practitioner to produce increased awareness, relaxation, pain relief, injury rehabilitation, or neuromuscular reeducation.

"Massage and/or bodywork office or establishment" means any establishment having a fixed place of business, vehicle or vessel, where any person engages in, conducts, carries on, or permits to be engaged in, conducted, or carried on as regular functions any massage and/or bodywork activities as defined above. Any establishment engaging in or carrying on, or permitting any combination of massage and/or bodywork shall be deemed a massage and/or bodywork office or establishment.

"Massage and/or bodywork practitioner" means any individual who, for any consideration whatsoever, engages in the practice of massage and/or bodywork, whether or not employed on the premises of a massage and/or bodywork office or establishment or acting as an independent contractor or as an owner.

"Median income" means the median household income for the San Francisco Primary Metropolitan Statistical Area (PMSA)—comprised of San Francisco County, San Mateo County and Marin County—as published by the United States Department of Housing and Urban Development (HUD), Office of Economic Affairs, Economic and Market Analysis Division, with adjustments for smaller or larger households made according to HUD's standard adjustment factors for household size, or as otherwise defined by resolution of the city council.

"Medical cannabis" or "medicinal cannabis" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), as further defined by SRMC 10.96.040.

Medical office. See "Office, medical."

"Mini-market" means a retail sales establishment operated in conjunction with a gasoline station, occupying a retail sales area open to the public between one hundred (100) square feet and one thousand (1,000) square feet, for the purpose of selling prepackaged food, beverages and similar small convenience items to gasoline station customers.

"Mixed-use project" means a development in which more than one use is combined in a single building or on a single site.

"Mobile home" means a structure, transportable in one or more sections, with or without a permanent foundation, designed to be used as a dwelling unit and connected to the required utilities. A mobile home does not include a recreational vehicle, motor coach, trailer coach or travel trailer.

"Mobile home lot" means a plot of land for placement of a single mobile home within a mobile home park; a mobile home pad.

"Mobile home park" means a residential facility with two (2) or more mobile home lots available for rent, lease or purchase, and providing services and facilities for the residents.

"Moderate income household" means a household with total gross annual earnings of less than one hundred twenty percent (120%) of median income as defined in this section.

"Monument sign" means a freestanding sign that is supported by a solid base or foundation rather than a pole or post.

"Motel." See "Hotel."

"Motor vehicle repairs and maintenance" means the repair, alteration, restoration, towing, painting, cleaning or finishing of vehicles as a primary use including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use is distinguished by two (2) categories: major repair of vehicles, which includes, but is not limited to, facilities providing major engine work, body work, and vehicle painting; and facilities providing minor repair and maintenance, which includes, but is not limited to, tune-ups, replacement and repair of brakes, batteries, tires, mufflers, and upholstery.

"Multiple copy sign" means a sign which advertises more than one business or use and the principal product or service.

"Multi-tenant sign" means a sign, which displays a list of multiple tenants, businesses or uses in one or more buildings located on one site.

"Mural" means a large painting that is executed directly on or permanently affixed to the surface of a wall depicting, among others, a scene or art.

"Mural sign" means a mural that depicts or includes written script, logo or art that is intended to display or advertise the sale of goods or services shall be considered a sign, subject to the provisions of Chapter 14.19, Signs.

"Nameplate" means a sign containing either or both the name of the occupant or building and the address of the site.

"Natural state" means all portions of lots that remain undeveloped and undisturbed. Grading, excavating, filling and/or the construction roadways, driveways, parking areas and structures are prohibited. Incidental minor grading for hiking trails, bicycle paths, equestrian trails, picnic areas and planting and landscaping which enhances the natural environment are permitted when approved through an environmental and design review permit.

Needed neighborhood-serving use. For the purposes of bonus trip allocations, "needed neighborhood-serving uses" consist of those needed service uses identified in a neighborhood plan, the general plan or as determined by resolution of the planning commission and/or city council.

"Nonconforming structure" means a structure or building, the size, dimensions or location of which was lawful prior to the adoption of this title or any subsequent revision or amendment, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

"Nonconforming use" means a use or activity which was lawful prior to the adoption of this title, or any subsequent revision or amendment of this zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

"Office, administrative" means an office-type facility used for administrative purposes, and/or occupied by a business engaged in the production of intellectual property. Examples of these uses include, but are not limited to, advertising agencies, commercial art and design services, construction contractors (office facilities only), design services including architecture, engineering, landscape architecture, urban planning, educational, scientific and research organizations, media postproduction services, news services, photography studios, and writers' and artists' offices.

"Office, business" means an establishment providing direct services to consumers. Examples of these uses include, but are not limited to, employment agencies, insurance agent offices (small-scale customer service offices, not administrative), real estate offices, travel agencies, utility company payment offices (not administrative). This use does not include banks and financial services, which are separately defined.

Office, general. "General office" means a use providing administrative, professional or business services.

Office, medical. "Medical office" means a facility, other than a hospital, where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis. A medical office use would provide consultation, diagnosis, therapeutic, preventative or corrective treatment services by doctors, dentists, medical and dental laboratories, chiropractors, counselors, physical therapists, respiratory therapists, acupuncturists and psychiatrists, and similar practitioners of medical and healing arts for humans licensed for such practice by the state of California. Medical office uses typically require use of specialized medical equipment and medical training to evaluate, diagnose and administer treatments, medication or therapies which require a prescription (including administering oxygen or performing dialysis, and sleep diagnostics facilities); increased support staff needs; multiple patient treatment rooms; and patient waiting areas. Counseling services and other services provided by nonmedical professionals may also be included under "offices, general."

"Office, professional" means an office-type facility occupied by a business providing professional services. Examples of these uses include, but are not limited to, accounting, auditing and bookkeeping services, attorneys, counseling services, court reporting services, detective agencies and similar services, financial management and investment counseling, literary and talent agencies, management and public relations services, psychologists, secretarial, stenographic, word processing and temporary clerical employee services.

"Official sign" means a sign required by a governmental body that is to discharge its legally required functions.

"On-site" means located on the lot that is the subject of an application for development.

"Open space" means any lot or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

"Open water" means submerged lands lying below 4.5 NGVD (mean sea level datum) and/or as shown on the San Rafael zoning map.

"Outdoor eating area" means any outdoor eating area used in conjunction with a food service establishment.

"Outdoor storage" means the keeping in an unroofed area of any goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

"Overhang" means the part of a roof or wall which extends beyond the facade of a lower wall.

"Owner or operator" (also "provider or service provider") means the person, entity or agency primarily responsible for installation and maintenance of a wireless communication facility, which may or may not be the same person or entity which is the owner of the property on which the facility is located.

"P.M. peak hour trip" means the number of vehicular traffic movements entering and exiting a site during the highest volume consecutive sixty (60) minutes in the p.m. peak period from four p.m. (4:00 p.m.) to six p.m. (6:00 p.m.) on the local street system.

Parcel. See "Lot."

"Parking access" means the area of a parking lot that allows motor vehicles ingress and egress from the street.

"Parking area" means any public or private land area designed and used for parking motor vehicles, including, but not limited to, parking lots and garages.

Parking facility. See "Parking area."

"Parking lot" means an off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.

"Parking space" means a space for the parking of a motor vehicle within a public or private parking area.

"Pedestrian-oriented design" means design qualities and elements that contribute to an active, inviting street-level environment, making the area a safe and attractive place for pedestrians.

"Performance standards" mean a set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

"Personal service" means provision of service of a personal nature. This classification includes, but is not limited to, barber and beauty shops, nail/manicure shops, dry cleaners, tailors, shoe repair shops, cosmetologist, skin-care consultant, esthetician, massage/bodywork and acupressure.

"Planning director" is synonymous with "community development director," as used in this Code.

"Pole or pylon sign" means a freestanding sign that is supported by a pole or post.

"Poolhall" means any use with two (2) or more billiard tables.

"Portable sign" means a sign that is constructed or designed to roll, slide or be moved from one location to another. Examples of portable signs include, but are not limited to, an A-frame sign and an I-frame sign.

"Private yard area" means a usable outdoor area adjoining a unit and intended for the private enjoyment of the occupants of the unit. Private yard area shall be defined such that its boundaries are evident. Private yard area may include balconies, decks, patios or porches.

Project. See "Development."

"Projecting or blade sign" means any sign, which projects from the face of a building and is supported by brackets, a projecting post or frame that is anchored to the building face. A blade sign is a small projecting sign.

"Property line" means the recorded boundary of a lot or parcel of land. When two (2) property lines meet or join at an angle that is greater than one hundred thirty (130) degrees, they are considered the same property line for the purpose of defining one (1) yard area and determining required yard setbacks.

"Public access" means permanent pedestrian, bicycle and/or vehicular access in or adjacent to natural amenities for study or enjoyment.

"Public improvement" means any improvement, facility or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy or similar essential services.

Recreation facility. "Recreational facilities" may include, but are not limited to, community centers, swimming or wading pools, spas, court facilities (such as tennis, basketball, or volleyball), picnic or barbecue areas and enclosed tot lot facilities with play equipment.

"Related equipment" means all equipment ancillary to the transmission and reception of any signal via radio frequencies. Such equipment may include, but is not limited to, cable, guy wires, conduit, conductors and power lines and their supporting poles associated with a wireless communication facility.

"Religious institution" means a use located in a permanent building and providing regular or organized religious worship and religious education incidental thereto, but excluding a private educational facility. A property tax exemption obtained, pursuant to the Constitution of the State of California and of the Revenue of Taxation Code of the State of California, shall constitute prima facie evidence that such use is a religious institution as defined herein. Religious institution includes a seminary, retreat, monastery and conference center of similar use for the conduct of religious activities, including accessory housing incidental thereto, but excluding a private educational facility.

"Relocation assistance" means the provision of rental assistance to low-income residential unit tenants that are: a) required to vacate a dwelling unit due to unit renovation, conversion or demolition proposed in conjunction

with a development project or property improvements; and b) permanently displaced from the premises by a landlord or property owner, where the tenant is required to seek and secure new housing. A permanently displaced resident qualifying for relocation assistance shall be a tenant of record listed either on a current lease or rental agreement that meets the County of Marin criteria as a low-income household. Relocation assistance is administered under Section 14.16.279 of this Title.

"Research and development facility" means a use engaged in study, testing, design and analysis, and experimental development of products, processes or services, including incidental manufacturing of products or provision of service to others.

"Research and development industry" means establishments primarily engaged in the research, development and controlled production of high-technology electronic, industrial or scientific products or commodities for sale, but prohibits uses that may be objectionable in the opinion of the hearing body, by reason of production of offensive odor, dust, noise, vibration, or storage of hazardous materials. This classification includes biotechnology firms, and manufacturing of nontoxic computer components.

"Research and development services" mean establishments primarily engaged in industrial or scientific research, including limited product testing. Includes electron research firms or pharmaceutical research laboratories, but excludes manufacturing, except of prototypes, or medical testing and analysis.

Residential care facility, large. "Large residential care facility" means a dwelling unit licensed by the state to serve seven (7) or more clients, which provides twenty-four (24) hour nonmedical care of persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual.

Residential care facility, small. "Small residential care facility" means a dwelling unit licensed by the state to serve six (6) or fewer clients which provides twenty-four (24) hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

"Residential development project" means a project for the construction or placement of a dwelling unit or an accessory dwelling unit, manufactured home, or a mixed-use development as defined in this section or the subdivision of land for a residential development project or a mixed use project.

"Residential, duplex" means one (1) structure on a single lot containing two (2) dwelling units, each of which is functionally separate from the other. This definition includes use of a duplex unit(s) as a household for "transitional housing" and "supportive housing" as defined under the State Health and Safety Code.

"Residential, multifamily" means medium and high density residential development, including a "transitional housing development" or "supportive housing" as defined under State Health and Safety Code Section 50675.2 (and subsequent amendments), containing three (3) or more attached dwelling units in one (1) or more structures located on a single parcel or common lot.

"Residential nameplate" means a plate of metal, glass, wood, etc., bearing a person's name, such as is often placed on or near the door of a dwelling or mailbox.

"Residential, single-family" means low density residential development containing one (1) primary residential "dwelling unit" for use by a single household on a single parcel. This definition includes use of a single-family dwelling and/or accessory dwelling unit as a household for "transitional housing" or "supportive housing" as defined under the California Health and Safety Code.

"Retaining wall" means a wall that is constructed to hold back or support an earthen bank, slope or hillside.

Reverse corner lot. See "Lot, reverse corner."

"Ridgeline" means a line following the long axis of a ridge (e.g., a long, narrow, conspicuous elevation of land) or knoll, comprised of the points of the highest ground elevation in locations that have been identified on the

ridgeline map (aka, "City of San Rafael Ridgeline Map" on file with the planning division). For purposes of review under the -H hillside overlay zoning regulations, a "visually significant ridgeline" shall include the area within one hundred (100) vertical feet of a ridgeline as identified on the San Rafael Ridgeline Map and located within "visually significant hillside, ridges and landforms areas" as designated on the community design map exhibit of the general plan.

"Riparian" means vegetation which is located adjacent to a watercourse or drainageway.

"Roof signs" mean 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.

Rooming house. See "Boarding house."

School, parochial or private. "Parochial or private school" means any building or group of buildings, the use of which meets state requirements of primary, secondary or higher education and which does not secure the major part of its funding from any governmental agency.

"SB 9 housing development" means a development in compliance with the provisions of SB 9 HOME Act of SRMC Section 14.16.282 that contains no more than two (2) primary dwelling units.

School, parochial or private. "Parochial or private school" means any building or group of buildings, the use of which meets state requirements of primary, secondary or higher education and which does not secure the major part of its funding from any governmental agency.

"School, specialized education and training" means private school uses offering instruction in areas such as, but not limited to, art, business trade, dance, computers and electronics, drama, driver's education, language, music, performing arts, sports (e.g., individual or group golf or baseball, etc.) or vocational trades. Does not include preschools and child day care facilities (see "day care centers").

"Seasonal outdoor eating area" means any outdoor eating area used in conjunction with a food service establishment which is operated only during the months of March through November. Seasonal outdoor eating areas shall have only temporary, movable perimeter barriers, fixtures and sunshades.

"Senior housing" means residential development designed for households occupied by senior citizens. Any age restrictions must be consistent with federal and state requirements. Such development may include central recreation areas and accessory medical facilities.

"Service provider" means any authorized provider or carrier of wireless communications services.

"Setback" means the distance between the property line and the exterior wall of a structure, excluding architectural features and other structures referenced in Section 14.16.130 of this title. Building setbacks are measured from established lot lines, irrespective of location of easements. See also definition for "yard".

"Shopping center" means a group of commercial establishments, planned, developed, owned or managed as a unit, with off-street parking provided on the site.

"Shopping mall" means an enclosed group of commercial establishments, planned, owned or managed as a unit, with covered, common-gathering areas and off-street parking provided on the site.

"Short-term rental" means the rental of all or a portion of a dwelling unit for less than thirty (30) days consecutive tenancy.

"Sign" means any medium for visual communication, which is used or intended to be used to attract attention to a location, use, or subject matter for advertising, instruction, information or identification purposes. Seasonal decorations, such as holiday greetings and displays that do not include advertising, are not defined as a sign and are not subject to the provisions of this chapter.

"Sign program" means a program providing a coordinated signing plan for one (1) or more businesses or uses located on one (1) site or several contiguous sites, which utilizes one (1) or more common elements such as color, materials, lettering, illumination, sign type and sign shape.

Single-room occupancy development. See "boarding house."

"Site" means a lot or lots used as a unit for the development of a project which may consist of one (1) or more buildings.

Slope, average. The average slope of a parcel shall be calculated using the following formula:

S=

Where S is the average percent of slope; .00229 is the conversion factor for square feet; I is the interval in feet; L is the summation of length of the contour lines in scale feet; and, A is the area of the parcel in acres.

"Small lot" means a legally subdivided lot in a given zone which is smaller in width and/or area than minimum requirements now required in the given zone.

"Small wind energy system" means a wind energy conversion system consisting of a freestanding or roof mounted wind turbine and associated control or conversion electronics which is intended to produce energy for use primarily on site.

"Small wireless facility" means a small wireless facility as defined by the FCC and that meets the following requirements:

A. Meet one (1) of the following mounting requirements:

   1. Are mounted on structures fifty feet (50') or less in height including their antennas as defined in Section 1.1320(d), or

   2. Are mounted on structures no more than ten percent (10%) taller than other adjacent structures, or

   3. Do not extend existing structures on which they are located to a height of more than fifty feet (50') or by more than ten percent (10%), whichever is greater;

B. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in Section 1.1320(d)), is no more than three (3) cubic feet in volume;

C. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume.

Antenna equipment, means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

"Specialty retail" means stores which sell nonconvenience goods needed on an infrequent basis. Specialty retail may have a more limited focus in specific zoning districts, consistent with the purposes of each district.

Specialty retail, bulk. "Bulk specialty retail" means the sale of large, major purchase, nonconvenience items. Examples of specialty retail involving bulk retail goods include, but are not limited to, the following: appliance stores; motor vehicle sales, new or used; furniture stores; spa/hot tub sales.

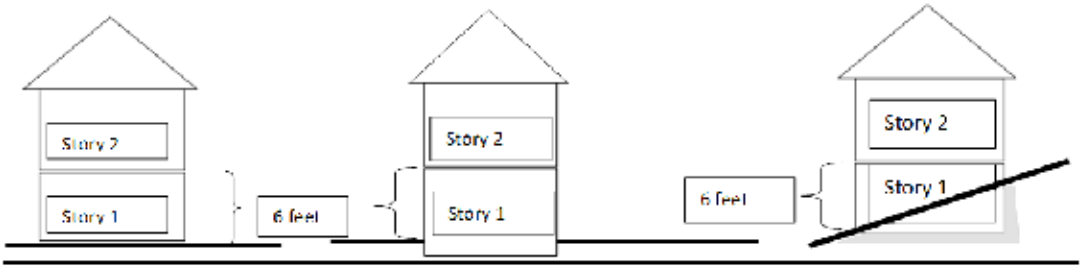
"Specialty retail, consistent with industrial uses" mean the retail sales of items which are related, supportive or complimentary to industrial uses. Examples include, but are not limited to, sales of the following: auto parts and supplies; building materials and supplies; motor vehicles, new or used.

"Specialty retail, consistent with office uses" mean the retail sales of items which are related, supportive or complimentary to office uses. Examples include, but are not limited to, sales of the following: computers; office furniture (sales or rentals); office supply and business machine shops.

Specialty retail, region-serving. "Region-serving specialty retail" means those retail uses which have a regional, rather than local or neighborhood, market base. These types of uses are generally high tax revenue generators and more than fifty thousand (50,000) square feet in size. Examples include, but are not limited to, the following: discount stores, large scale; furniture stores; home improvement stores; motor vehicle sales, new.

"Stealth design" means a wireless communication facility design that blends in with the surrounding environment by means of screening, concealment or camouflage.

"Story" means any floor having its finished floor surface entirely above grade and at least six (6) feet in height; or any floor that is partially below grade and where the finished surface of the floor above it is at least six (6) feet above the lowest grade:



"Structure" means anything constructed or erected that requires a foundation or a structural support on the ground, including a building or public utility, but not including: a fence or a wall used as a fence if the height does not exceed seven feet (7'); retaining walls four feet (4') or less in height; in-ground swimming pools; and improvements built at-grade such as parking lots and access drives or walks.

Structure, accessory. See "Accessory structure."

"Subdivision or neighborhood identification sign" means a sign containing the name of a subdivision, development or neighborhood.

"Subterranean" means a structure, improvement or building floor level that is constructed entirely below ground with all points to the top of the structure or floor level being situated entirely below natural and finished grade; exclusive of any excavations made to provide required ingress or egress.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population (i.e., adults with low-income having one (1) or more disabilities including mental illness, HIV or AIDS, substance abuse or other chronic health conditions, or individuals eligible for services provided under the Lanterman Development Disabilities Services Act Division 4.5, commencing with Section 4500 of the Welfare and Institutions Code and may include, among other populations, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting institutional settings, veterans, or homeless people) and that is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

"Taxi station" means taxi headquarters with administrative and/or dispatch offices and taxicab parking and storage.

"Temporary window sign" means any temporary sign painted on a window or constructed of paper, cloth or other light material and attached to the window, or located within three feet (3') of the interior side of the window, and displayed so as to call attention of persons outside of the building to a sale of merchandise or change in the status of a business or use.

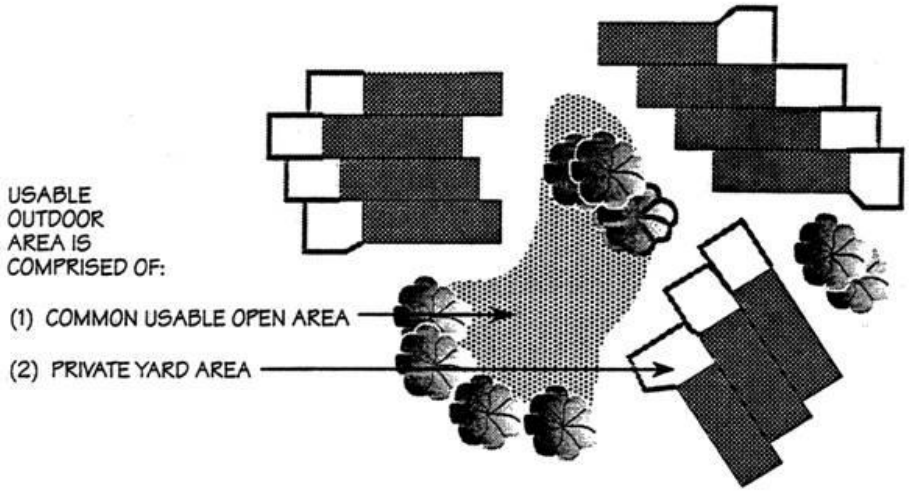
"Tobacco retailer, significant" means a retail establishment that devotes twenty percent (20%) or more of its sales or display area to, or derives seventy-five percent (75%) or more of its gross sales receipts from, the sale of tobacco products and/or tobacco paraphernalia.

"Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted units to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months.

"Transportation System Management (TSM)" means the use of incentives and/or disincentives by local employers to assist in reducing the number of single-passenger auto commute trips and peak-hour trips by increasing the use of carpools, vanpools, public transit, bicycles and walking, and through the use of flex-time.

"Usable outdoor area" means an area open to the sky with a slope less than ten percent (10%). The usable outdoor area shall be a well-defined coherent space that is an integral component of the project design. Usable outdoor area includes private yard areas and common areas suitable for passive and active recreation use. Such areas may be located on the ground, roof, balcony, patio or terrace; and excludes minor decorative landscaping, driveway areas, parking facilities, and utility or service area. Common usable outdoor area shall have a minimum dimension of twelve feet (12').

Diagram B for Section 14.03.030
USABLE OUTDOOR AREA



Vehicle, recreational. "Recreational vehicle" means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term recreational vehicle shall include, but shall not be limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, boats, and boat trailers.

"Very-low income household" means a household with total gross annual earnings of less than fifty percent (50%) of median income as defined in this section.

"Wall sign" means any sign painted on or attached parallel to the wall of a building and projecting not more than twelve inches (12") from the building face.

"Warehousing" means the commercial or industrial use of a building or buildings primarily for the storage of goods or materials.

"Water-efficient landscape" means landscaping and irrigation that has been designed and installed to comply with Marin Municipal Water District (MMWD) Ordinance No. 414, as adopted by reference in Section 14.16.370 of

this Title. A water-efficient landscape is designed to conserve water usage by establishing and applying a "maximum applied water allowance," which is the upper limit of annual applied water for a landscape area based on the local evaporation factor, and site-specific factors such as soil, slope and planting conditions. The requirements for a water-efficient landscape are administered under Section 14.16.370 of this Title.

"Water-oriented" means uses which are either water frontage dependent, or which attract people to the waterfront.

"Wetland creation" means a human activity bringing a wetland into existence at a site in which it did not formerly exist.

"Wetland restoration" means a human activity that returns a former wetland from an altered condition, in which all or virtually all wetland functions and values have been lost, to a condition with full wetland functions and values. Restoration does not mean enhancement of wetlands which, though degraded, nonetheless provide significant biological wetland functions or values.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (same as U.S. Army Corps of Engineers). (See Section 14.13.050(A), Determination of Wetland Boundaries).

"Wholesale" means a use engaged primarily in the selling of any type of goods for purpose of resale, including related storage and distribution.

"Wildlife" means animals, including fish and fowl, and/or plants existing in their natural habitat.

"Wind-blown device" means any man-made device which visibly moves when blown in the wind.

"Window sign" means a sign painted on or attached to a window or located inside within a distance equal to the greatest dimension of the window (either width or height) and designed to be viewed from the outside of the building in which the window is located.

"Wind turbine" means a rotating machine which converts kinetic energy in wind into mechanical energy, which it then converts into electricity.

"Wireless communication facilities" means facilities regulated by the FCC that transmit and/or receive electromagnetic signals for cellular technology, personal communication services, enhanced specialized mobile services, paging systems, and radio and television broadcast transmission facilities. Facilities include antennas, microwave dishes, parabolic antennas, and all other types of equipment (but does not include small wireless facility, which is defined separately under "small wireless facility") used in the transmission or reception of such signals; telecommunication towers or similar structures supporting said equipment; associated equipment cabinets and/or buildings; and all other accessory development. These facilities include amateur radio antenna structures that exceed thirty feet (30') in height but do not include government-operated public safety networks.

Wrecking yard, motor vehicle. "Motor vehicle wrecking yard" means any use of premises for the conduct of a business whereon two (2) or more vehicles not in operating condition are standing and/or on which used motor vehicles, or parts thereof, are dismantled and/or stored.

"Yacht club" means a private social club which may include a club house, private berthing for club members, tie-up visitor docking, on-site parking for automobiles and boat trailers; and which may include dry storage for members' boats. The berthing or storage of boats for commercial purposes, party boats, and rental boats are specifically excluded.

Yard, front. "Front yard" means an open area extending along the full width of a lot between side lot lines and from the front lot line to a parallel line at a distance equal to the depth of the required yard (i.e., required setback area), within which no structure shall be located except as provided and/or permitted in this title. The front yard should be consistent with the orientation of the other lots and improvements on the same side of the

street or consistent with any prior determination that was made to define the front yard. The front yard is usually the side where the main building entrance is located and in the general direction in which the main building faces. Front yards shall be determined for lots as follows:

1. For a corner lot with two (2) street frontages, the front yard is typically the narrower of the two (2) frontages, except where an existing front building setback has clearly been established by prior property development.
2. For an interior lot with an irregular-shaped frontage, the front yard is defined as all portions of the lot that are parallel to and immediately front the road right-of-way or easement that provides access to the lot.
3. For a triangular shaped lot with fewer than four (4) lot lines, the director may determine the front yard location based on orientation of the building entrance and surrounding development pattern.
4. For a flag or panhandle lot, the front yard is defined as all portions of the lot within the required front setback measured from the longest property line that is most parallel and nearest to the public street. The panhandle portion of the lot shall not be used in determining the required setbacks. See Title 15, Section 15.06.030(d).

Yard, rear. "Rear yard" means an open area extending across the full width of the lot between side lot lines and from the rear lot line to a line at a distance equal to the depth of the required yard, within which no structure shall be located except as provided in this title.

Yard, side. "Side yard" means an open area extending between the front yard and the rear yard and between the side lot line and a line at a distance equal to the depth of the required yard, within which no structure shall be located except as provided in this title.

(Ord. 1853 § 1, 2007; Ord. 1838 §§ 16, 17, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1825 § 2 (Exh. A) (part), 2004; Ord. 1823 § 1 (Exh. A) (part), 2004; Ord. 1797 § 1, 2003; Ord. 1765 § 1 (part) (Exh. A), 2001; Ord. 1756 § 1, 2000; Ord. 1751 § 1, 2000; Ord. 1748 § 1, 2000; Ord. 1742 § 1, 1999; Ord. 1740 § 1, 1999: Ord. 1731 § 1, 1998: Ord. 1713 § 1, 1997; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1879, § 9, 2-1-10; Ord. No. 1882, Exh. A, §§ 4—6, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1937 , § 2, 1-19-2016; Ord. No. 1955 , (Exh. A, §§ 1, 2), 3-19-2018; Ord. No. 1964 , § 2(Exh. B) § 1, 11-19-2018; Ord. No. 1967 , §§ 1, 2, 12-17-2018; Ord. No. 1976 , div. 2, 11-18-2019; Ord. No. 1996 , div. 2(Exh. A, 3.1), div. 2(Exh. C, 1.1), 8-16-2021; Ord. No. 2002 , div. 4, 12-6-2021; Ord. No. 2013 , § 4, 8-1-2022)

Division II BASE DISTRICT REGULATIONS

Chapter 14.04 RESIDENTIAL DISTRICTS (R, DR, MR, HR)

14.04.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the specific purposes of the residential zoning districts include the following:

A. To provide a wide variety of housing opportunities in terms of housing types, and neighborhoods with varying densities, lot sizes, and development standards;

B. To protect and enhance existing residential neighborhoods through retention of existing land development patterns and retention of their varied design character;

C. To promote new residential development compatible with environmental site constraints and nearby neighborhood development;

D. To provide opportunities for churches, day care facilities, residential care facilities and other uses which are considered to be compatible and desirable land uses within residential neighborhoods;

E. To provide outdoor recreational amenities for residents;

F. To ensure the provision of public services and facilities needed to accommodate planned residential densities;

G. To promote sensitive hillside residential design.

The additional purposes of each residential zoning district follow.

H. Single-Family Residential Districts (R5, R7.5, R10, R20, R1a, R2a).

1. The single-family residential districts provide opportunities for low-density, detached single-family residential development. Development densities are based on existing development patterns in the area and environmental site constraints. In hillside areas, development shall conform to the hillside development standards and review procedures established in Chapter 14.12, Hillside Development Overlay District.

2. Single-family residential districts include hillside resource residential land use categories with minimum densities of two (2) or more acres for minimum lot sizes; hillside residential and residential estate categories with densities from twenty thousand (20,000) square foot to two (2) acre lot minimums; and low-density residential land use categories with densities ranging from five thousand (5,000) square foot to twenty thousand (20,000) square foot lot minimums.

I. Duplex Residential District (DR).

1. The duplex residential district provides opportunities for single-family and duplex residential development. As a transitional area between single-family and multifamily districts, an intent of the district is to maintain the design character of single-family districts.

2. The duplex residential district is included in the medium-density residential land use category with a density of two thousand five hundred (2,500) square feet per dwelling unit.

J. Multifamily Residential Districts: Medium-Density (MR2, MR2.5, MR3, MR5).

1. The medium-density residential districts provide opportunities for a mixture of residential types, including detached single-family residences, duplexes and multifamily dwellings at medium densities. Desired styles of development within this district include garden apartments and condominiums.

2. Medium-density multifamily residential districts are included in the medium-density residential land use category with densities ranging from two thousand (2,000) square feet to three thousand (3,000) square feet per dwelling unit.

K. Multifamily Residential Districts: High-Density (HR1, HR1.5, HR1.8).

1. The high-density residential districts provide opportunities for high-density multifamily residential development.

2. High-density multifamily residential districts are included in the high-density residential land use category with densities ranging from one thousand (1,000) square feet to one thousand eight hundred (1,800) square feet per dwelling unit.

L. Planned Development District (PD). Planned development districts on large residential lots promote clustering of residences to avoid sensitive portions of the site. Densities are consistent with the general

plan and typically are low. See Chapter 14.07, Planned Development District, for additional information.

(Ord. 1625 § 1 (part), 1992).

14.04.020 Land use regulations (R, DR, MR, HR, PD).

P: Permitted by right; C: Conditional use permit; A: Administrative use permit; Blank: Not allowed.

Table 14.04.020

Type of Land Use	R	DR	MR	HR	PD	Additional Use Regulations
Residential Uses						
Single-family residential	P	P	P	P	C	
Duplex residential	P*	P	P	P	C	*Pursuant to regulations and restrictions outlined in Section 14.16.282
Multifamily residential			P	P	C	
Accessory dwelling unit (ADU)	P	P	P	P	P	See standards, Section 14.16.285
Junior accessory dwelling unit (JADU)	P	P	P	P	P	See standards, Section 14.16.285
Animal keeping	A	A	A	A	A	See standards, Chapter 14.17.020 See Chapter 6.04
Boardinghouse or roominghouse			C	C	C	
Conversion of senior housing to nonsenior housing	C	C	C	C	C	
Emergency shelters for the homeless						
Permanent				C		See standards, Section 14.16.115
Temporary or rotating	C	C	C	C	C	
Home occupations	P	P	P	P	P	See standards, Chapter 14.16
Mobile home parks				C	C	See standards, Chapter 14.17
Residential care facilities for the handicapped						
Small (0—6 residents)	P	P	P	P	C	
Large (7 or more residents)	P	P	P	P	C	
Residential care facilities, other						
Small (0—6 residents)	P	P	P	P	C	
Large (7 or more residents)				C	C	
Visitor Accommodations						
Bed and breakfast inns	C*		C	C	C	*On nonhillside lots, 20,000 square feet or larger.
Hotels and motels				C	C	
Day Care						
Day care facility, child or adult						

Family day care home						
Small (0—8 children or adults)	P	P	P	P	P	
Large (9—14 children)	A	A	A	A	A	See standards, Chapter 14.17
Large (9—14 adults)	C	C	C	C	C	
Day care center (15 or more children or adults)	C*	C	C	C	C*	*Prohibited in R2a, R1a and PD districts, and R20 hillside residential lots.
Public, Quasi-Public and Community Uses						
Clubs and lodges, including youth groups			C	C	C	
Community gardens	P	P	P	P	P	Subject to performance standards outlined in Chapter 14.17.
Open space	P	P	P	P	P	
Public parks, playgrounds and recreation facilities	P	P	P	P	P	
Religious institutions	C*	C	C	C	C*	*Prohibited in R2a, R1a and PD-hillside districts, and R20 hillside residential lots.
Schools						
Public	P*	P	P	P	C*	*Prohibited in R2a, R1a and PD-hillside districts, and R20 hillside residential lots.
Parochial, private	C*	C	C	C	C*	*Prohibited in R2a, R1a and PD-hillside districts, and R20 hillside residential lots.
Use of closed school sites	C*	C	C	C	C*	May include: child care programs; educational, recreational, cultural and religious classes, programs, and activities; administrative offices incidental to educational service uses; churches; counseling groups and those private business uses which would be permitted as home occupations. *Prohibited in R2a, R1a, and PD-hillside districts, and R20 hillside residential lots.
Offices and Related Uses						
Medical services (medical, dental and health-related services with sale of articles clearly incidental to the services provided)						
Hospitals				C	C	
Major medical facilities, including extended care facilities (treatment and			C	C	C	

convalescent) and children's treatment facilities						
Commercial Uses						
Plant nurseries and garden supply		C	C	C	C	
Transportation Facilities						
Parking lot, public or private			C	C	C	See regulations, Chapter 14.18
Accessory Structures and Uses						
Accessory structures and uses customarily incidental to a permitted use and contained on the same site	P	P	P	P	P	See regulations, Chapter 14.16

(Ord. 1838 § 18, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1802 § 2, 2003: Ord. 1663 § 1 (part), 1994; Ord. 1652 § 1, 1993; Ord. 1641 § 1 (part), 1993; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 7, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1924, § 1, 9-15-2014 ; Ord. No. 1937 , § 1, 1-19-2016; Ord. No. 1964 , § 2(Exh. B) § 2, 11-19-2018; Ord. No. 2002 , div. 5, 12-6-2021; Ord. No. 2013 , § 4, 8-1-2022)

14.04.030 Property development standards (R).

N.R.: Not required unless otherwise noted in Additional Standards. Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to site development standards. See Chapter 14.23, Variances, and Chapter 14.24, Exceptions, for allowable adjustments to these standards. See Chapter 14.25, Environmental and Design Review Permits, a listing of improvements subject to review (including upper story additions), and design guidelines and criteria for development.

Table 14.04.030

	R2a	R1a	R20	R10	R7.5	R5	Additional Standards
Minimum lot area (sq. ft.)	2 acres	1 acre	20,000	10,000	7,500	5,000/6,000 (corner)	(I)
Minimum lot width (ft.)	150	150	100	75	60	50/60 (corner)	(I)
Minimum yards							
Front (ft.)	20	20	20	20	15	15	(A), (B)
Side/street side (ft.)	15	15	12’6”	10	6	10% of lot width, min. 3’, max. 5’	(C), (D), (H)
Rear (ft.)	25	25	10	10	10	10	(H)
Maximum height of	30	30	30	30	30	30	(E), (H)

structure (ft.)							
Maximum lot coverage	20%	25%	30%	40%	40%	40%	
Maximum upper story floor size	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	(E), (F), (G)
Private yard area	NR	NR	NR	NR	NR	NR	
Parking	*	*	*	*	*	*	* Based on use. See 14.18.040., (H)

(A) Where two (2) or more lots in a block have been improved with buildings, the minimum required shall be the average of improved lots on both sides of the street for the length of the block. For purposes of determining average front setback on developed lots, setback should be measured from the property line to closest wall of any principal structure.

(B) Where there is a driveway perpendicular to the street, any garage built after January 1, 1992, or carport built after January 1, 2006, shall be set back twenty feet (20').

(C) On a reverse corner lot, the rear twenty feet (20') of the street side yard shall have a fifteen-foot (15') setback.

(D) In the R7.5, R10 and R20 districts, where two (2) or more lots in a block have been improved with buildings, the minimum required shall be the average of improved lots within the same district on both sides of the street for the length of the block.

(E) In the -EA Combining District, maximum height of seventeen feet (17') to peak, and one habitable floor.

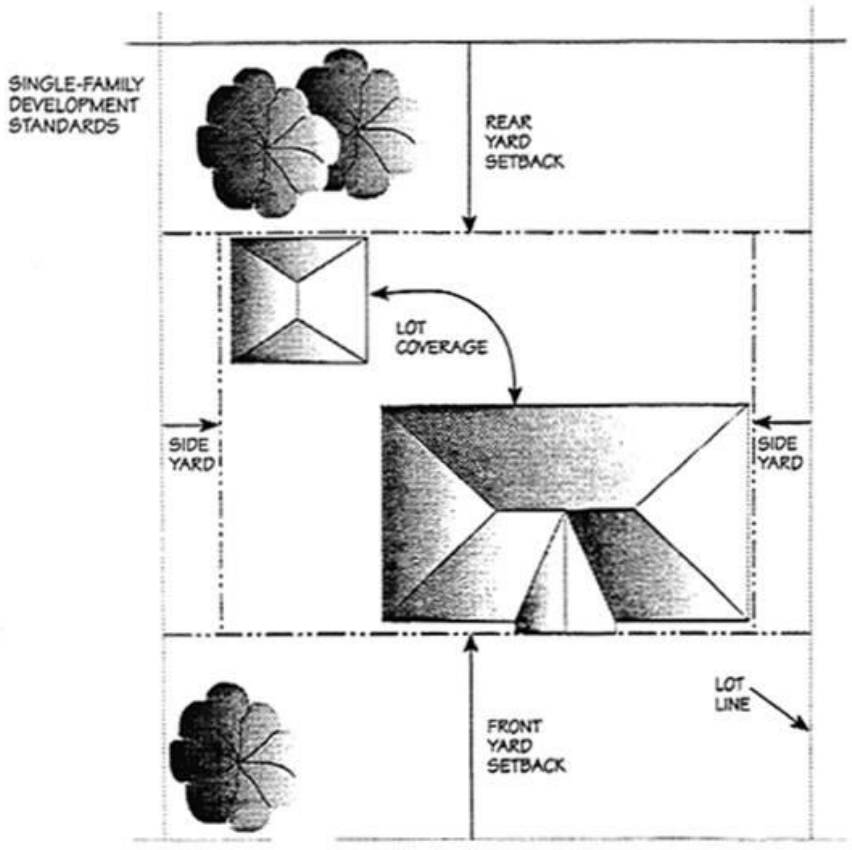
(F) For design criteria for upper-story construction, see Section 14.25.050(F)(6), Upper-Story Additions.

(G) For lots less than five thousand (5,000) square feet, the maximum upper story shall be fifty percent (50%) of the maximum lot coverage calculation; for lots five thousand (5,000) square feet or larger, maximum upper story size shall be seventy-five percent (75%) of maximum lot coverage calculation.

(H) See Section 14.16.282.C. for property development standard applicable to SB 9 Housing Developments.

(I) Parcels created through Chapter 15.155 (Urban Lot Splits) are exempt from these standards.

Diagram for Section 14.04.030



(Ord. 1838 § 19, 2005; Ord. 1820 § 1, 2004; Ord. 1802 § 3, 2003; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 8, 9, 6-21-2010; Ord. No. 2002 , div. 6, 12-6-2021; Ord. No. 2013 , § 4, 8-1-2022)

14.04.040 Property development standards—Duplex residential (DR), medium density residential (MR), high density residential (HR).

NA: Not applicable.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to other site development standards, Chapter 14.23, Variances, Chapter 14.24, Exceptions, for allowable adjustments to these standards, and Chapter 14.25, Environmental and Design Review Permits, for a listing of improvements subject to review (including addition of new units or additions of floor area to existing units) and design guidelines and criteria for development.

Table 14.04.040

	DR	MR5	MR3	MR2.5	MR2	HR1.8	HR1.5	HR1	Additional Standards
Minimum lot area (sq. ft.)	5,000/6,000 (corner)	6,000	6,000	6,000	6,000	6,000	6,000	6,000	

Minimum lot area/dwelling unit (sq. ft.) (Max. residential intensity)	2,500	5,000	3,000	2,500	2,000	1,800	1,500	1,000	(B), (C)
Minimum lot width (ft.)	50/60 (corner lot)	60	60	60	60	60	60	60	
Minimum yards									
Front (ft.)	15	15	15	15	15	15	15	15	(D), (E)
Side (ft.)	10% of lot width, min. 3', max. 5'	10	10	10	10	10% of lot width, min. 3', max. 5'	10% of lot width, min. 3', max. 5'	10% of lot width, min. 3', max. 5'	
Street side (ft.)	10	10	10	10	10	10	10	10	(E), (F), (G)
Side providing pedestrian access (ft.)	NA	15	15	15	15	12	12	12	(F), (N)
Rear (ft.)	10	5	5	5	5	5	5	5	(F), (H), (I)
Distance between res. structures									
No primary pedestrian access to structures (ft.)	NA	15	15	15	15	8	8	8	(N)
Primary pedestrian access to structures (ft.)	NA	20	20	20	20	20	20	20	
Maximum height of structure (ft.)	30	36	36	36	36	36	36	36	(J), (K)
Maximum lot coverage	40%	40%	50%	50%	50%	60%	60%	60%	
Minimum usable outdoor area (common and/or private)/Dwelling unit (sq. ft.)	200	200	200	200	200	150	150	100	(L)
Landscaping	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	(M)

Parking	*	*	*	*	*	*	*	*	* Based on use. See Section 14.18.040.

(A) Intentionally not used.

(B) The minimum lot area for a boarding house is five hundred (500) square feet per guest room.

(C) A density bonus may be granted, as provided for in Section 14.16.030 (Density bonus).

(D) Where two (2) or more lots in a block have been improved with buildings, the minimum required shall be standard, or the average of improved lots on both sides of the street for the length of the block, whichever is less.

(E) Where there is a driveway perpendicular to the street, any garage built after January 1, 1991, shall be set back twenty feet (20').

(F) Parking and maneuvering areas, excluding access driveways, shall be prohibited in all required yards, per Section 14.18.200 (Location of parking and maneuvering areas) of this title.

(G) In the DR and MR district, on a reverse corner lot, the rear twenty feet (20') of the street side shall have a fifteen-foot setback.

(H) In the MR or HR districts, where development is adjacent to a single-family district, the rear yard setback shall be ten feet (10').

(I) In order to provide adequate privacy and sunlight, additional separation may be required through design review.

(J) The height limit in the Latham Street neighborhood is specified in the Downtown San Rafael Precise Plan Form-Based Code adopted by separate ordinance.

(K) A height bonus may be granted, as provided for in Section 14.16.190 (Height bonus).

(L) Private yard areas shall have a minimum dimension of six feet (6'). In the HR districts, common indoor area suitable for recreational uses may be counted toward the usable outdoor area requirement.

(M) Where a driveway is located in a side yard, a minimum of three feet (3') of buffer landscaping shall be provided between the driveway and side property line. The required rear yard shall be landscaped to provide a buffer.

(N) Setback distances apply to areas that provide a primary pedestrian access only.

(Ord. 1838 § 20, 2005; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 10, 11, 6-21-2010; Ord. No. 1990 , div. 1.1, 3-1-2021; Ord. No. 1996 , div. 2(Exh. A, 4.1), 8-16-2021)

Chapter 14.05 COMMERCIAL AND OFFICE DISTRICTS

14.05.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the specific purposes of the commercial and office districts include the following:

A. To promote specialized commercial environments which provide appropriately located areas for retail, service and office development, and provide the city with a wide range of neighborhood, local and regional serving uses;

B. To promote appropriately located businesses which provide local employment opportunities and/or generate tax revenue for the city;

C. To promote commercial and office projects at appropriate building intensities and trip-generation characteristics which will maintain acceptable traffic-operating standards;

D. To promote high-quality design in new or remodeled commercial and office development consistent with design guidelines;

E. To promote and encourage commercial and office sites and designs which are accessible by a variety of transportation means;

F. To promote San Rafael's downtown area as a viable commercial and financial center, and as an urban center with a mixture of civic, social, entertainment, cultural and residential uses;

G. To retain and enhance the Northgate Shopping Center and surrounding retail area as a regional shopping center;

H. To provide housing opportunities by encouraging a variety of housing in mixed-use districts.

The additional purposes of each commercial district follow.

I. General Commercial District (GC). The general commercial district promotes a full range of retail and service uses in major shopping centers and certain areas of the city which have freeway or major street access and visibility. Residential use is allowed with a use permit. Offices are a conditional secondary use, for example, on portions of sites with poor retail visibility. Floor area ratio (FAR), trip allocation and design criteria vary throughout the district in response to specialized conditions recognized in the general plan.

J. Neighborhood Commercial District (NC).

1. The neighborhood commercial district provides convenient shopping areas within residential neighborhoods for retail items and personal services which may be needed on a frequent basis for vicinity residents. Examples of convenience goods or services include supermarkets, pharmacies, dry cleaners and personal service establishments. Within this district, a limited amount of office and residential use may be allowed, only if in mixed-use developments. Office uses shall provide a service convenience to local residents. Neighborhood commercial areas are intended to reduce trips to more distant major commercial areas.

2. Neighborhood commercial retail uses are limited in order to ensure compatibility with residential neighborhoods and to concentrate region-serving goods and services in locations outside of neighborhoods and in proximity with one another.

3. Neighborhood commercial development is intended to be compatible with the surrounding residential neighborhood in terms of building height (typically one to two (2) stories, with up to three stories for a retail/residential mixed-use building), setbacks and landscaping.

K. Office District (O). The office district provides opportunities for the siting of a variety of administrative, professional, medical and general business offices. This district also allows residential use, and limited convenience retail and service uses to support office uses and serve local employees. The office district is intended to provide an attractive, landscaped environment with outdoor amenities such as courtyards, plazas, benches, seating areas and pedestrian/bicycle paths. FAR, trip allocation and design criteria vary throughout the district in response to localized conditions recognized in the general plan.

L. Downtown Mixed Use (DMU) District. The downtown mixed use district encompasses the 265-acre downtown area, which is the commerce and employment center of the city. Allowable uses, design intent, and development standards and regulations are defined and specified in the Downtown San Rafael Precise Plan and form-base code which is adopted by separate ordinance and incorporated herein by reference.

M. Commercial/Office District (C/O). The commercial/office district promotes retail, office, mixed retail/office/residential uses, and cultural facilities. The commercial/office district is different from the downtown zoning districts in that it provides greater opportunity for office and financial uses in first-floor locations. Residential units are promoted to provide evening and weekend activity, increase the city's supply of housing units and support downtown activities and uses.

N. Residential/Office Districts (R/O).

1. The residential/office district is a transitional area between the downtown zoning districts and nearby residential areas. This district promotes residential, office, and mixed-use residential/office projects. This district also provides limited retail and personal service uses which support residential and office uses, and which are compatible with such uses. Gasoline service stations are allowed along major arterials such as Second Street.

2. This district is characterized by lower development intensity than in the downtown zoning districts. The residential/office district is also intended to be less intense in terms of evening and weekend activity than the downtown zoning districts.

O. Francisco Boulevard West Commercial District (FBWC).

1. The Francisco Boulevard West commercial district provides a wide range of specialty retail uses with regional appeal, including sales of automobiles, bulk retail items, building materials and other region-serving goods. The Francisco Boulevard West district is intended to accommodate large-scale developments and shopping centers with specialty retail tenants. Assemblage of parcels shall be encouraged in this district in order to promote larger scale development projects. Residential use is also allowed in this district.

2. This area is expected to be the focus of major redevelopment in the future. Until redevelopment occurs, it is recognized that there will be many nonconforming uses within the Francisco Boulevard West commercial district, and it is intended that existing legal nonconforming uses may remain as viable interim uses. Section 14.16.270, Nonconforming structures and uses, contains general provisions on nonconforming uses which apply in these instances. However, these types of interim uses are not permitted on any additional sites within the Francisco Boulevard West district.

(Ord. 1831 § 1 (part), 2004; Ord. 1757 § 1, 2000; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. A, 5.1), 8-16-2021)

14.05.020 Land use regulations (GC, NC, O, C/O, R/O, FBWC).

A. Francisco Boulevard West Commercial District (FBWC): Land use regulations for new development and/or redevelopment.

1. New development and redevelopment within the Francisco Boulevard West commercial district shall be subject to initial use permit review by the planning

commission. Master use permits shall be required for multi-tenant shopping center developments, specifying the types of uses which may go into the center, approving an initial roster of tenants, and identifying procedures for subsequent review and approval of future tenants when changes in occupancy occur.

2. Prerequisites for initiating the use permit review process are as follows:

    a. The proposed use is listed on the commercial matrix as requiring a conditional use permit and meets the review criteria specified in subsection (A)(3) of this section;

    b. In the event the proposed use is not listed on the commercial matrix as requiring a conditional use permit, but the proposed use meets the review criteria specified below, application for determination may be made to the planning commission. The planning commission shall determine whether the proposed use is consistent with the specified review criteria for the Francisco Boulevard West commercial district.

3. Review criteria for evaluating proposed uses in new development and redevelopment projects in the Francisco Boulevard West commercial district are listed below. In order to initiate the use permit process as indicated in either subsection (A)(2)(a) or (A)(2)(b) of this section, the proposed project must meet one (1) or more of the following criteria:

    a. Generates high tax revenue;

    b. Constitutes a large-scale business;

    c. Constitutes a multi-tenant center with shops which provide related services or types of goods; and/or

    d. Has a regional market base.

P: Permitted by right; C: Conditional use permit; CZ: Conditional use permit/zoning administrator; A: Administrative use permit; Blank: Not allowed.

Table 14.05.020

Type of Land Use	GC	NC	O	C/O	R/O	FBWC*	Additional Use Regulations
Commercial Uses							
Animal sales and service, excluding exterior kennels, pens or runs							See Chapter 10.24
Animal care facilities	CZ	CZ	CZ	CZ			See Chapter 14.17 standards.
Animal retail sales	P	P		P			
Boat sales	CZ					CZ	
Building materials and supplies							
Brick, gravel, rock, concrete, lumber and tile sales	P*			P*		C	*See Outdoor storage.
Electrical supply stores	P*			P*		C	
Equipment rental business	P*			P*		C	
Glass and window stores	P*			P*		C	
Hardware stores	P*	P*		P*	P*	C	
Paint stores	P*			P*		C	
Plumbing stores (and ancillary service)	P*			P*		C	
Business sales and service							
Blueprint and photocopy shops	P		P	P	P		

	Computer services	P		P	P	P		
	Locksmith shop	P		P	P	P		
	Office furniture sales and rentals	P		P	P	P	C	
	Office supply and business machine shops	P		P	P	P	C	
	Printing shops	P		P	P	CZ		
Cannabis Related Uses								
	Cannabis Testing/lab			P (2)	P (2)			*Subject to additional regulations and permitting (See SRMC Chapter 10.96)
	Cannabis Delivery			P (2)	P (2)			*Subject to additional regulations and permitting (See SRMC Chapter 10.96)
	Cannabis Manufacturing							
	Cannabis Distribution							
Card rooms								See Chapter 10.36
Coffee roasters		CZ			CZ			
Food and beverage service establishments								
	Brew pubs	CZ			CZ		CZ	
	Catering establishments	P	CZ		P			
	Cocktail lounges	C			C			
	Fast food restaurants	C	C		C			
	Food service establishment, high volume	C			C			
	Food service establishment (with or without incidental serving of beer or wine or ancillary bar), but without a cocktail lounge, live entertainment as defined under Chapter 14.03, and/or dancing							
	(1) 1,000 sq. ft. or less in size	P	P	P	P	P	C	
	(2) More than 1,000 sq. ft. in size	P	CZ	CZ	P	CZ	CZ	
	Food service establishment with a cocktail lounge, live entertainment, and/or dancing	CZ			CZ	CZ	CZ	
	Live entertainment/dancing (without food service)	C			C		C	
	Outdoor eating areas	A*	A*	A*	A*	A*	A*	For outdoor eating areas on private property see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks, see Section 14.16.277 standards. For outdoor eating

								areas on parking spaces within the public right-of-way, see Chapter 11.70—"Streetaries" Outdoor Eating Areas.
Food and beverage stores								
	Bakeries, retail (and ancillary food service)	P	P	P	P	P	C	
	Candy stores and confectioneries	P	P		P			
	Convenience markets	CZ	CZ		CZ	CZ		
	Grocery stores and supermarkets	P*	P*		P*	C	C	*Operating between 11 p.m. and 6 a.m. requires a use permit (CZ) to review lighting, noise, and compatibility with surrounding residential uses.
	Liquor stores							
	(1) Less than 200 ft. from residential district	CZ	CZ		CZ	CZ	CZ	
	(2) 200 ft. or more from residential district	P	P		P	C	C	
Fortunetelling		A			A			See Chapter 14.17 standards. *Rear ground level or 2nd floor or above.
Funeral interment services (including mortuaries, but excluding crematories)		CZ				CZ		
Kiosks		A	A	A	A	A		See Section 14.16.225 standards
Motor vehicle sales and service (including automobiles, motorcycles, trailers, trucks and recreational vehicles)								
	Auto detailing	CZ						
	Coin-op washing	C	C		C	C		
	Gasoline stations (including mini-markets, and minor repair, such as tune-ups, brakes, batteries, tires, and mufflers)	C	C	C	C	C	C	See Section 14.16.160 regulations. For repair, see Chapter 14.17 standards.
	Rentals	CZ		CZ	CZ			
	Repairs, major (engine work, painting, and body work)	CZ						See Chapter 14.17 standards.
	Repairs, minor (tune-ups, brakes, batteries, tires, mufflers and upholstery)	CZ	CZ		CZ	CZ	C	See Chapter 14.17 standards.

	Sales, new or used vehicles							
	(1) Five or fewer vehicles displayed or stored on-site	CZ			CZ		CZ	
	(2) More than five vehicles displayed or stored on-site	C			C		C	
	Sales, parts and supplies	P			P		C	
	Sales, tires and ancillary service	CZ			CZ		CZ	
Music rehearsal/recording studios		CZ			CZ			
Outdoor storage, including temporary or permanent storage containers		CZ	CZ	CZ	CZ		C	
Personal service establishments								
	Artistic and photographic studios, without sale of equipment or supplies	P			P	P		
	Barber shops/beauty salons	P	P	P	P	P	C	
	Dry cleaning establishments, with no on-site processing	P	P	P	P	P		
	Dry cleaning establishments, with on-site processing	CZ	CZ	CZ	CZ	CZ		
	Laundromats (self service)	P	P		P	P		
	Massage and/or bodywork offices or establishments	P	P	P	P	P		See Chapter 8.34
	Nail salons	P	P	P	P	P		
	Seamstress/tailor	P	P	P	P	P		
	Shoe repair	P	P	P	P	P		
Recreational facilities (indoors)								
	Bowling alleys	C	C		C			See Chapter 10.32
	Game arcades	C			C			See Chapter 14.17 standards.
	Fitness/recreation facility	CZ	CZ	CZ	CZ	CZ		
	Poolhalls/billiards	C	C		C			
	Theaters	C	C		C		C	
Retail								
	Antique stores	P			P		C	
	Apparel stores	P			P		C	
	Appliance stores (and ancillary repair)	P			P		C	
	Art, craft, music and photographic supply stores	P	P		P		C	
	Auctions	P				P		See Chapter 10.16
	Bicycle shops	P	P		P		C	
	Book, gift, stationery stores	P	P		P		C	
	Department stores	P			P		C	
	Discount stores	P			P		C	
	Drug stores and pharmacies	P*	P*		P*	C	C	*Operating between 11 p.m. and 6 a.m. requires a use permit (CZ) to review lighting,

								noise, and compatibility with surrounding residential uses.
	Electronics sales (televisions, radios, computers, etc.)	P			P		C	
	Florist shops	P	P	P	P	P		
	Furniture stores and upholstery shops (and ancillary repair)	P			P		C	
	Gun shops	C					C	See Chapter 14.17 standards.
	Jewelry stores	P			P			
	Plant nurseries and garden supply	P*	P*		P*		C	*See Outdoor storage.
	Secondhand stores and pawnshops	CZ			CZ			See Chapter 10.20
	Shoe stores	P			P		C	
	Shopping centers	C	C		C		C	
	Sporting goods stores	P			P		C	
	Stamp and coin shops	P			P			
	Swimming pool supplies	P			P			
	Tobacco retailer, significant	C			C		C	Shall not be located within 1,000 feet from schools (public and private elementary, junior high, and high schools), public parks, public libraries, arcades, youth/teen centers, community/recreation centers, licensed day care centers for children, shopping malls, and houses of worship with organized youth programs, as measured from the property lines of each parcel.
	Toy stores	P	P		P		C	
	Variety stores	P			P		C	
	Video sales and rentals	P	P		P			
Offices and Related Uses								
Financial services and institutions		P	P	P	P	P	P	
Medical services (medical, dental and health-related services, with sale of articles clearly incidental to the services provided)								

	Clinics	C	C	C	C**	C		**4th Street west of D Street: Rear ground level or 2nd floor or above.
	Hospitals			C				
	Major medical facilities, including extended care facilities (treatment and convalescent) and children's treatment facilities			C		C		
	Laboratories	CZ	CZ	CZ	CZ**	CZ		**4th Street west of D Street: Rear ground level or 2nd floor or above.
	Medical offices	CZ	CZ	P	P*	P		*4th Street west of D Street: Rear ground level or 2nd floor or above.
Offices, general		CZ	P*	P	P**	P		*Rear ground level or 2nd floor or above. **4th Street west of D Street: Rear ground level or 2nd floor or above.
Public, Quasi-Public and Community Uses								
Clubs and lodges, including youth groups		C		C	C			
Community gardens		P	P	P	P	P	P	Subject to performance standards outlined in Chapter 14.17.
Public facilities								
	Administrative offices	C		P	P*	P		*Rear ground level or 2nd floor or above.
	Day services center	C	C	C	C	C		
	Job center	C						
	Libraries, museums and other cultural facilities	C	C	C	C	C		
	Public and utility facilities (corporation, maintenance or storage yards, utility distribution facilities, etc.)						C	
	Public facilities, other (police, fire, paramedic, post office, etc.)	C	C	C	C	C	C	
Public parks, playgrounds, and recreation facilities		P	P	P	P	P		
Religious institutions		C	C	C	C	C		
Schools								

	Parochial, private	C		C	C*	C		*Rear ground level or 2nd floor or above.
	Public	P	P	P	P	P		
	Specialized education and training	CZ		CZ	CZ	CZ		
Residential Uses			*		*	*		*See Chapter 14.17 standards.
Single-family residential			C			C		
Duplex residential						C		
Multifamily residential		A(3)	A(3)	P	A(3)	P	A(3)	
Accessory dwelling units		P	P	P	P	P	P	See standards, Section 14.16.285
Junior accessory dwelling units		P	P	P	P	P	P	See standards, Section 14.16.285
Animal keeping		CZ	CZ	CZ	CZ	CZ	CZ	See Chapter 14.17 standards.
Caretaker's residence		CZ	CZ	CZ	CZ	CZ	C	
Emergency shelters for the homeless								
	Permanent	P/C			C	C		See Section 14.16.115.
	Temporary or rotating	C	C	C	C	C	C	
Home occupations		P	P	P	P	P	P	See Chapter 14.16 regulations.
Live/work quarters		A	A	A	A	A	A	See Chapter 14.17 standards.
Mobile home park							C	
Residential care facilities for the handicapped								
	Small (0—6 residents)	P	P	P	P	P	P	
	Large (7 or more residents)	P	P	P	P	P	P	
Residential care facilities, other								
	Small (0—6 residents)	P	P	P	P	P	P	
	Large (7 or more residents)	C	C	C	C	C	C	
Rooming or boarding houses		A	C	A	A	A	A	See Chapter 14.17 standards.
Day Care								
Day care facility, child or adult								
	Family day care							
	Small (0—8 children or adults)		P		P	P		
	Large (9—14 children)		CZ		CZ	A		See Chapter 14.17 standards.
	Large (9—14 adults)		CZ		CZ	CZ		
Day care center (15 or more children or adults)		CZ	CZ	CZ	CZ	CZ	C	
Visitor Accommodations								
Hotels, motels, or bed and breakfast inns		C			C	C	C	
Transportation Facilities								
Bus stations		C			C		C	
"Park and ride" facilities		CZ			CZ	CZ	C	

Parking facilities, commercial or municipal	CZ		CZ	CZ	CZ	C	
Taxi stations	C			C		C	
Transit stations or transitways	C			C		C	See Chapter 10.60
Temporary Uses							
Temporary uses	A	A	A	A	CZ	A	See Chapter 14.17 standards.
Accessory Structures and Uses							
Accessory structures and uses customarily incidental to a permitted use and contained on the same site	P	P	P	P	P	P	See Chapter 14.16 regulations.

(1) Reserved.

(2) Shall not be located within six hundred feet (600') from schools (public and private), as measured from the property lines of each parcel.

(3) See Section 14.17.100 (Residential uses in commercial districts).

(Ord. 1838 § 21, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1815 § 1, 2004; Ord. 1797 § 3, 2003; Ord. 1765 § 1 (part) (Exh. B (part)), 2001; Ord. 1751 § 2, 2000; Ord. 1742 § 2, 1999; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1693 § 1, 1996; Ord. 1689 § 1, 1995; Ord. 1663 § 1 (part), 1994; Ord. 1641 § 1 (part), 1993; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 12, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1924, § 1, 9-15-2014 ; Ord. No. 1955 , (Exh. A, §§ 3, 4), 3-19-2018; Ord. No. 1964 , § 2(Exh. B) §§ 3, 4, 11-19-2018; Ord. No. 1996 , div. 2(Exh. C, 2.1), 8-16-2021; Ord. No. 2002 , div. 7, 12-6-2021; Ord. No. 2015 , § 2, 9-6-2022; Ord. No. 2016 , § 3, 10-3-2022)

14.05.022 Land use regulations (DMU).

All land use regulations applicable to the DMU district are contained within the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

(Ord. 1838 § 22, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1815 § 2, 2004; Ord. 1797 § 4, 2003; Ord. 1765 § 1 (Exh. B (part)), 2001; Ord. 1763 § 1 (part), 2001; Ord. 1757 § 2 (Exh. Z-1), 2000: Ord. 1751 § 2, 2000; Ord. 1742 § 2, 1999; Ord. 1725 § 1 (Exh. A), 1998; Ord. 1694 § 1 (Exh. A) (part), 1996).

(Ord. No. 1882, Exh. A, § 13, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1924 , § 1, 9-15-2014; Ord. No. 1996 , div. 2(Exh. A, 5.2), 8-16-2021; Ord. No. 2002 , div. 8, 12-6-2021)

14.05.030 Property development standards (GC, NC, O, C/O, R/O, FBWC).

NR: Not required unless otherwise noted in additional standards. NA: Not applicable.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to floor area ratio, and site development standards. See Chapter 14.23, Variances, and Chapter 14.24, Exceptions, for allowable adjustments to these standards, and Chapter 14.25, Environmental and Design Review Permits, for a listing of improvements subject to review and design guidelines and criteria for development.

Table 14.05.030

	GC	NC	O	C/O	R/O	FBWC	Additional Standards
Minimum lot area (sq. ft.)	6,000	6,000	7,500	2,000/ building	6,000	6,000	
Minimum lot area/dwelling unit (sf) (Max. residential intensity)	1,000	1,800	1,000	1,000	1,000	1,000	(A), (O)
Floor area ratio (Max. nonresidential intensity)	*	*	*	*	*	*	* See Section 14.16.150
Minimum lot width (ft.)	60	60	60	NR	60	60	
Minimum yards:							
Front (ft.)	NR	NR	20	NR	NR	NR	(B)
Side (ft.)	NR	NR	6	NR	NR	NR	(B)
Street side (ft.)	NR	NR	10	NR	NR	NR	(B)
Rear (ft.)	NR	NR	20	NR	NR	NR	(B)
Maximum height of structure (ft.)	36	36 feet; 30 feet for a residential-only building	36	36	36	36	(C), (D), (E), (F), (G), (H)
Maximum lot coverage	NR	NR	40%	NR	NR	NR	(P)
Minimum landscaping	15%	10%	25%	NR	10%	15%	(I), (J), (K), (L)
Usable outdoor area	NR	NR	NR	NR	NR	NR	(M)
Parking	*	*	*	*	*	*	* Based on use. See Section 14.18.040

(A) There is no minimum lot area requirement for a boarding house.

(B) Where the frontage of a block is partially in an R district, the front yard shall be the same as required for that R district, and when the side and/or rear of the lot(s) abuts an R district, the respective side

and/or rear yard shall be ten feet (10'). Parking or maneuvering shall be permitted within the required side and rear yards provided that a minimum six-foot (6') wide landscape buffer area, excluding curbs, is provided adjacent to the side and rear property lines.

(C) Exceptions may be granted for a height above thirty-six feet (36'), subject to the provisions of Chapter 14.24, Exceptions.

(D) Hotels have a four (4) story fifty-four-foot (54') height limit. A one-story twelve-foot (12') height bonus may be approved as part of a design review permit by the planning commission if it finds that the hotel will provide a significant community benefit, and the design is consistent with this title.

(E) Repealed 3/18/96.

(F) Buildings existing or approved as of January 1, 1987 which are more than three (3) stories in height shall not be considered nonconforming, and are listed in Section 14.16.040, Buildings over three (3) stories.

(G) See general plan downtown height map for lot-specific height limits.

(H) A height bonus may be permitted in residential development as provided for in Section 14.16.190, Height bonus.

(I) Where the frontage of the lot(s) is adjacent to or across from an R district, fifty percent (50%) of the front yard shall be landscaped. Where the side yard abuts an R district, a minimum three feet (3') of buffer landscaping must be provided. Where the rear of the lot abuts an R district, ten feet (10') of buffer landscaping must be provided.

(J) In the GC district, a minimum fifteen feet (15') of the front setback must be landscaped. Landscaped portions of the public right-of-way may be included, subject to approval by the hearing body.

(K) For parking lot landscaping, see Section 14.18.160, Parking lot screening and landscaping.

(L) A landscaped amenity area for employees and the public is encouraged in office and commercial projects.

(M) Provision of usable outdoor area is encouraged in residential development as part of a mixed-use project.

(N) Intentionally not used.

(O) A density bonus may be granted, as provided for in Section 14.16.030.

(P) The maximum lot coverage restriction established for the office (O) district shall not apply to solar panels installed over existing paved parking spaces; consistent with Section 14.16.307.

(Ord. 1838 § 23, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1782 Exh. A (part), 2002; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 14, 15, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1964 , § 2(Exh. B) § 5, 11-19-2018; Ord. No. 1990 , div. 1.2, 3-1-2021)

14.05.032 Property development standards (DMU).

All property development standards applicable to the DMU district are contained within the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

(Ord. 1838 § 24, 2005; Ord. 1782 Exh. A (part), 2002; Ord. 1694 § 1 (Exh. A) (part), 1996).

(Ord. No. 1882, Exh. A, §§ 16, 17, 6-21-2010; Ord. No. 1996 , div. 2(Exh. A, 5.3), 8-16-2021)

Chapter 14.06 INDUSTRIAL DISTRICTS (I, LI/O, CCI/O, LMU)

14.06.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the specific purposes of the industrial districts include the following:

A. To provide appropriately located areas for a range of light and heavy industrial uses, including the building trades and automotive service industries, which serve area residents and businesses;

B. To preserve and expand the contribution of industrial, building trades and auto service uses to the overall economic base and employment opportunities of the city;

C. To provide a suitable environment for industrial uses and minimize potential land use conflicts by limiting nonindustrial uses within the industrial districts;

D. To minimize the impacts of industrial uses on adjacent nonindustrial districts;

E. To upgrade appearance and parking conditions to a reasonable extent while maintaining the vitality of the industrial districts;

F. To promote industrial development at appropriate building intensities and trip-generation characteristics which will maintain acceptable traffic operating standards.

The additional purposes of each industrial district follow.

G. Industrial District (I). The industrial district provides opportunities for a full range of heavy and light industrial uses, including the building trades and automotive service industry. The industrial district protects general industrial uses from disruption and competition for space from unrelated retail, commercial and office uses that could be more appropriately located elsewhere in the city. However, ancillary office, small office and certain retail and service uses are allowed for the convenience of area businesses and employees.

H. Light Industrial/Office District (LI/O). The light industrial/office district provides landscaped settings for light industrial uses, research and development facilities, warehousing, wholesale distributing and office uses. Incidental employee-serving retail and service uses are encouraged. Specialty retail uses consistent with light industrial or office uses, region-serving specialty retail and retail uses supportive of and related to industrial uses may be permitted provided the proposed use is consistent with floor area ratio (FAR) and trip allocation standards. FAR requirements, trip allocation standards and design criteria vary throughout the district in response to specialized conditions recognized in the general plan.

I. Core Canal Industrial/Office District (CCI/O).

1. The core canal industrial/office district provides sites for light industrial, automotive service and small-scale office uses. Specialty retail uses consistent with industrial uses may be allowed provided the proposed use complies with FAR requirements and trip allocation standards. Because this area suffers from severe parking congestion, and typically has small lot sizes and narrow street widths, high trip-generating uses such as general retail, personal service or food service establishments are restricted in this district. These types of uses are more appropriately located in nearby commercial districts.

2. Within the core canal industrial/office district, new development and building remodels shall achieve upgraded design and reduce any adverse circulation and parking impacts. Fringe sites and buildings shall also provide an appropriate transition to adjacent residential and commercial districts.

J. Lindaro Mixed-Use District (LMU). The Lindaro mixed-use district provides sites for a mix of industrial and light industrial uses. To facilitate the transition of this district to a more compatible use with the adjacent school, to encourage the development of a more attractive entryway to the neighborhoods to the south, and to help meet the housing needs of artists and other professionals who want to combine their work and residence, allow live/work uses in addition to the existing industrial and light industrial uses.

(Ord. 1831 § 1 (part), 2004; Ord. 1625 § 1 (part), 1992).

14.06.020 Land use regulations (I, LI/O, CCI/O, LMU).

P: Permitted; C: Conditional use permit; CZ: Conditional use permit/zoning administrator; A: Administrative use permit; Blank: Not allowed.

Table 14.06.020

Types of Land Use	I	LI/O	CCI/O	LMU	Additional Use Regulations
Industrial Uses					
Boat building and repair	C				
Industry, general					
Asphalt mix plants	C				
Assembly plants	P	P	P	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Biotechnology firms	C	C	C	C	
Cabinet shops	P*	P*	P*	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Candle-making shop	P*	P*	P*	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Ceramic shop	P	P*	P*	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Chemical manufacture or processing	C				
Clothing manufacturing	P	P	P	P	
Concrete mix plants	C				
Contractor's yards (screened)	P	CZ	CZ	CZ	
Dry boat storage	C	C	C		
Dry cleaning plants	P	P	P	P*	*Permitted by right unless within 300 feet of a residential district, in

					which case it is "CZ," subject to a use permit.
Electronics industry	CZ	CZ	C	C	
Food manufacture or processing	P*	P*	P*	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Fuel yards	C				
Furniture manufacturing	P*	P*	P*	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Furniture refinishing or repair	P*	P*	P*	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Laboratories	CZ	CZ	CZ	CZ	
Machine shops	P*		P*	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Metal fabrication, forging or welding shops	CZ	C	C	C	
Packaging plants	P*	P*	P*	P*	*Permitted by right unless within 300 feet of a residential district, in which case it is "CZ," subject to a use permit.
Pharmaceutical manufacturing	C	C	C	C	
Planing mills	C			C	
Printing shops	P	P	P	P	
Research and development facilities		C			
Research and development industry	CZ	CZ		C	
Research and development services		P	P	P	
Rock, sand or gravel plants (crushing, screening and stockpiling)	C				
Mini-storage	P	P	P	P	See Section 14.16.150(G)(4) for FAR exception. For lots facing Highway 101 or 580 or the Bay, mini-storage use must be located behind an active street front or bay front use.
Moving companies	P	CZ	C	C	
Storage, warehousing and distribution	P	P	P	P	See Outdoor storage.
Trucking yards and terminals	C				
Waste Management					
Hazardous waste transfer, storage, treatment and recycling	C				See hazardous waste management plan standards.
Resource recovery and recycling	CZ				

Solid waste management (collection, disposal)	C				See Chapter 10.72
Transfer stations	C				
Wholesale and distribution	P	P	P	P	
Offices and Related Uses					
Financial services and institutions		CZ	CZ		
Medical services (medical, dental and health-related services, with sale of articles clearly incidental to the services provided)					
Clinics		C	C		
Laboratories	C	C	C	C	
Offices, medical		C	C	C*	*Max. of 5,000 sq. ft. or less.
Offices, general	C*	C**	C	C*	*5,000 sq. ft. or less. **See Section 14.16.150(B)(2).
Commercial Uses					
Animal care facilities (with or without exterior kennels, pens or runs)	CZ	CZ	CZ	CZ*	See Chapter 14.17 standards. *Without exterior kennels, pens or runs (See Chapter 10.24).
Building materials and supplies					
Brick, gravel, rock, concrete, lumber, tile sales	P*	P*	P*	P*	*See Outdoor storage.
Electrical supply stores	P*	P*	P*	P*	*See Outdoor storage.
Equipment rental business	P*	P*	P*	P*	*See Outdoor storage.
Glass and window stores	P*	P*	P*	P*	*See Outdoor storage.
Hardware stores	P*	P*	P*	P*	*See Outdoor storage.
Paint stores	P*	P*	P*	P*	*See Outdoor storage.
Plumbing supply stores (and ancillary service)	P*	P*	P*	P*	*See Outdoor storage.
Business sales and service					
Blueprint and photocopy shops	P	P	P	P	
Computer services		P	P	P	
Locksmith shop	P	P	P	P	
Office furniture sales and rentals		P	P	P	
Office supply and business machine shops		P	P	P	
Printing shops	P	P	P	P	
Cannabis Related Uses					
Cannabis Testing/lab	P (1)	P (1)	P (1)		*Subject to additional regulations and permitting (See SRMC Chapter 10.96)
Cannabis Delivery	P(1)	P(1)	P(1)		*Subject to additional regulations and permitting (See SRMC Chapter 10.96
Cannabis Manufacturing	P(1)	P(1)	P(1)		*Subject to additional regulations and permitting (See SRMC Chapter 10.96)
Cannabis Distribution	P(1)	P(1)	P(1)		

Card rooms	C				See Chapter 10.36
Coffee roasters	P	P	P	C	
Food and beverage establishments					
Brew pubs	CZ	CZ	CZ		
Catering	P	P	P	P	
Cocktail lounges (without food service)		C			
Fast food restaurants	C	C			
Food service establishment, high volume		C	C		
Food service establishment (with or without incidental service of beer or wine or ancillary bar), but without a cocktail lounge, live entertainment as defined under Chapter 14.03, and/or dancing					
(1) 1,000 sq. ft. or less in size	CZ	CZ	CZ	CZ	
(2) More than 1,000 sq. ft. in size		CZ		CZ	
Food service establishment, with a cocktail lounge, live entertainment and/or dancing		C			
Live entertainment and/or dancing (without food service)		C			
Outdoor eating areas	A	A	A	A	For outdoor eating areas on private property, see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks, see Section 14.16.277 standards. For outdoor seating areas on parking spaces within the public right-of-way, see Chapter 11.70—"Streetaries" Outdoor Eating Areas.
Food and beverage stores					
Bakeries (with ancillary food service 1,000 sq. ft. or less in size)					
(1) Retail		P		P	
(2) Wholesale	P	P	P	P	
Funeral interment services					
Mortuaries	P	P	P		
Crematories	C				Must be located at least 650 ft. from any residential zoning district and/or schools, including private, parochial, public, nursery, preschool and child day care facilities; Crematory stack and delivery entrance may not be visible from public streets.
Maintenance and repair services					
Appliance repair	P*	P*	P*	P*	*See Outdoor storage.

Building maintenance services	P*	P*	P*	P*	*See Outdoor storage.
Furniture upholstery	P*	P*	P*	P*	*See Outdoor storage.
General contractors	P*	P*	P*	P*	*See Outdoor storage.
Motor vehicle sales and service (including automobiles, motorcycles, trailers, trucks and recreational vehicles)					
Auto detailing	P	CZ	CZ	C	
Coin-op washing	C	C	C	C	
Gasoline stations (including mini-markets, and minor repair, such as tune-ups, brakes, batteries, tires and mufflers)	C	C	C		See Chapter 14.16 regulations. For repair, see Chapter 14.17 standards.
Rentals	CZ	CZ	CZ	CZ	See Chapter 10.84
Repairs, major (engine work, painting, body work)	A	A	A	CZ	See Chapter 14.17 standards.
Repairs, minor (tune-ups, brakes, batteries, tires, mufflers, upholstery)	A	A	A	CZ	See Chapter 14.17 standards.
Sales, new or used vehicles	C/CZ*	C/CZ*	C/CZ*	C/CZ*	*For sales of five or fewer cars.
Sales, parts and supplies	P	P	P	P	
Towing businesses	C	C	C	C	
Wrecking yards	C				See Chapter 10.52
Kiosks		A			See Section 14.16.225
Music rehearsal/recording studios	P	CZ	CZ	CZ	
Outdoor storage	CZ	CZ	CZ	CZ	
Personal service establishments					
Artistic and photographic studios, without sale of equipment or supplies		P	P	P	
Barber shops/beauty salons		P	P	P	
Dry cleaning establishments with or without on-site processing facilities	P	P	P	P	
Laundromat (self service)		P	P	P	
Nail salon		P	P	P	
Seamstress/tailor		P	P	P	
Shoe repair		P	P	P	
Recreational facilities (indoors)					
Bowling alleys		CZ	CZ	CZ	
Fitness/recreation facility		CZ	CZ	CZ	
Retail					
Drug stores and pharmacies		C			
Florist		C			
Specialty retail, region-serving		C			
Public, Quasi-Public and Community Uses					
Clubs and lodges, including youth groups		C	C	C	
Community gardens	P	P	P	P	Subject to performance standards outlined in Chapter 14.17.

Public facilities					
Administrative offices	C*	P	P	P	*5,000 sq. ft. or less.
Day services center	C	C	C		
Job center	C	C	C		
Public and utility facilities (corporation, maintenance or storage yards, utility distribution facilities, etc.)	C	C	C	C	
Public facilities, other (police, fire, paramedics, post office, etc.)	P	P	P	P	
Public parks, playgrounds and recreation facilities		C			
Religious institutions		C	C	C	
Schools					
Parochial, private		C		C	
Public		P		P	
Specialized education and training		CZ	CZ	CZ	
Residential, Day Care and Visitor Accommodation Uses					
Live/work quarters				A	See Section 14.17.100(C)(9) (Live/work quarters).
Caretaker's residence	CZ	CZ	CZ	CZ	
Day care centers	CZ	CZ	CZ	CZ	
Emergency shelters for the homeless					
Permanent	C	P/C	C	C	See Section 14.16.115
Rotating or temporary	C	C	C	C	
Hotels or motels		C	C		
Transportation facilities					
Bus stations	C	C	C		
Heliport		C			
"Park and ride" facilities	CZ	CZ	CZ		
Parking facilities, commercial or public	CZ	CZ	CZ		
Taxi stations	C	C	C		See Chapter 10.60
Transit stations or transitways	C	C	C		
Temporary Uses					
Temporary uses	A	A	A	A	See Chapter 14.17 standards.
Accessory Structures and Uses					
Accessory structures and uses customarily incidental and contained on the same site	P	P	P	P	See Chapter 14.16 regulations.

(1) Shall not be located within three hundred (300) feet from schools (public and private), as measured from the property lines of each parcel.

(Ord. 1838 § 25, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1815 § 3, 2004; Ord. 1751 § 2, 2000; Ord. 1742 § 2, 1999; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1663 § 1 (part), 1994; Ord. 1641 § 1 (part), 1993; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 19, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1955 , (Exh. A, §§ 5, 6), 3-19-2018; Ord. No. 1964 , § 2(Exh. B) §§ 6, 7, 11-19-2018; Ord. No. 1996 , div. 2(Exh. C, 3.1), 8-6-2021; Ord. No. 2015 , § 3, 9-6-2022; Ord. No. 2016 , § 4, 10-3-2022)

14.06.030 Property development standards (I, LI/O, CCI/O, LMU).

NR: Not required, unless otherwise noted in Additional Standards.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to floor area ratio and site development standards. See Chapter 14.23, (Variances) and Chapter 14.24 (Exceptions) for allowable adjustments to these standards, and Chapter 14.25 (Environmental and design review permits) for a listing of improvements subject to review and design guidelines and criteria for development.

Table 14.06.030

	I	LI/O	CCI/O	LMU	Additional Standards
Minimum lot area (sq. ft.)	6,000	6,000	6,000	6,000	
Minimum lot width (ft.)	60	60	60	60	
Floor area ratio (Max. non-residential intensity)	*	*	*	*	* See Section 14.16.150
Minimum yards:					
Front (ft.)	NR	20	NR	NR	(A)
Side (ft.)	NR	10 or 20/0	NR	NR	(A), (B)
Rear (ft.)	NR	10	NR	NR	(A), (B)
Maximum height of structure (ft.)	36	36	36	36	(C)
Maximum lot coverage	NR	NR	NR	NR	
Minimum landscaping	10%	20%	10%	10%	(D), (E), (F), (G), (H), (I)
Parking	*	*	*	*	* Based on use. See Section 14.18.040

(A) Where the frontage of a block is partially in a residential district, the front yard shall be the same as required for that residential district, and when the side and/or rear of the lot(s) abuts a residential district, the respective side and/or rear shall be ten feet (10').

(B) Parking and maneuvering shall be permitted within the required side and rear yards provided that a minimum six-foot wide landscape buffer area, excluding curbs, is provided adjacent to the side and rear property lines.

(C) Buildings existing or approved as of January 1, 1987, which are more than three (3) stories in height shall not be considered nonconforming, and are listed in Section 14.16.040, Buildings over three (3) stories.

(D) In the LI/O and CCI/O districts, street trees shall be included in landscaping plans for development fronting Harbor Street, Medway Road, and Bellam Blvd.; in the LMU district, for development facing Lindaro Street, and in the I district, for development fronting Woodland Avenue, Irwin Street, Lincoln Avenue, Andersen Drive and DuBois Street.

(E) Where the frontage of the lot(s) is adjacent to or across from a residential district, fifty percent (50%) of the front yard shall be landscaped. Where the side yard abuts a residential district, a minimum three feet (3') of buffer landscaping must be provided. Where the rear of the lot abuts a residential district, ten feet (10') of buffer landscaping must be provided.

(F) For parking lot landscaping, see Section 14.18.160, Parking lot screening and landscaping.

(G) Landscaping is encouraged along entryways to neighborhoods, including Irwin Street, Harbor Street, Medway Road, Bellam Boulevard, Lindaro Street and Woodland Avenue.

(H) Exception may be granted for required minimum landscaping standards, subject to the provisions of Chapter 14.24, Exceptions.

(I) In the LI/O district, a minimum twenty feet (20') of the front setback must be landscaped.

(Ord. 1831 § 1 (part), 2004; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 20, 21, 6-21-2010)

Chapter 14.07 PLANNED DEVELOPMENT DISTRICT (PD)

14.07.010 Specific purposes.

The specific purposes of the planned development (PD) district are to:

A. Promote and encourage cluster development on large sites to avoid sensitive areas of property;

B. Encourage innovative design on large sites by allowing flexibility in property development standards;

C. Encourage the establishment of open areas in land development;

D. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods;

E. Establish a procedure for the development of large lots of land in order to reduce or eliminate the rigidity, delays and conflicts that otherwise would result from application of zoning standards and procedures designed primarily for small lots;

F. Accommodate various types of large-scale, complex, mixed-use, phased developments;

G. Enable affected governmental bodies to receive information and provide an integrated response to both the immediate and long-range impacts of such proposed developments.

(Ord. 1625 § 1 (part), 1992).

14.07.020 Land use regulations.

A. No use other than an existing use or a temporary use approved pursuant to section D, below, shall be permitted in a PD district except in accord with a valid development plan. Any permitted or conditional use authorized by this title may be included in an approved development plan, consistent with the general plan land use designation(s) and intensities for land within the PD district. The PD zoning approval shall establish the range of allowable land uses for the development.

B. A master use permit or individual use permits may be required to establish specific uses on the property consistent with general plan land uses and parking standards. A master use permit shall be required for nonresidential, phased and/or multi-tenant development.

C. A development plan is not required for existing school sites located in the PD district. A use permit shall be required for any nonpublic school uses of the site, or for reuse of any existing school facilities, per Section

14.09.020, land use regulations (P/QP). A development plan shall be required when such property redevelops.

D. Temporary uses may be permitted within a PD district, with or without an approved or valid development plan. The performance standards and provisions of Section 14.17.130 of this Title shall apply to temporary uses, and shall be administered through a use permit (zoning administrator).

(Ord. 1838 § 26, 2005; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 22, 6-21-2010)

14.07.030 Property development regulations.

A. Minimum Area. The minimum net area of a PD district shall be 2.5 acres, provided that a PD district may be subdivided in accord with a valid PD plan; exceptions to this provision are lots over 0.5 acres in size where developed to provide affordable housing and hillside residential lots over one acre in size where unusual site characteristics exist.

B. Residential Unit Density. The total number of dwelling units in a PD plan shall not exceed the maximum number permitted by the general plan density for the total site area. Density bonuses for senior housing development and affordable housing development may be considered consistent with general plan policies and state law.

C. Nonresidential Intensity. Nonresidential development shall not exceed floor area ratios, as specified in the general plan, except in the downtown where a one-time ten percent (10%) bonus may apply for business expansion.

D. Building Height Limits. Building heights shall be consistent with height standards contained in the general plan.

E. Other Development Regulations. Other development regulations shall be as prescribed by the development plan.

(Ord. 1838 § 27, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1625 § 1 (part), 1992).

14.07.035 Established PD district containing no development standards or regulations.

When an established PD district does not contain or include site-specific regulations or spatial standards necessary to guide and approve building additions, modifications or property improvements, the following shall apply:

A. For proposed additions and modifications to principal structures and primary uses, the community development director shall determine, based on development characteristics, use and density, and the contiguous zoning districts, a zoning district adopted within this title that is most compatible to the PD district. The regulations and spatial standards of the most compatible zoning district shall be applied, subject to the approval of an environmental and design review permit.

B. For accessory structures, fences and other ancillary improvements, the regulations of Chapter 14.16 of this Title shall apply.

C. The community development director shall determine if the improvements proposed per A and B above are major or minor. Improvements determined to be major shall require an amendment to the PD zoning per Section 14.07.150 of this chapter. Improvements determined to be minor shall not require an amendment to the PD zoning.

(Ord. No. 1882, Exh. A, § 23, 6-21-2010)

14.07.040 Authority.

The planning commission shall recommend approval, conditional approval or denial of applications to reclassify property to the PD district and/or applications for development plans to the city council. The city council shall have the authority to approve, conditionally approve or deny rezonings and/or development plan applications.

(Ord. 1625 § 1 (part), 1992).

14.07.050 Application.

A. An application to reclassify property to PD shall be initiated by a property owner or authorized agent, the planning commission or the city council. If the property is not under single ownership, all owners shall join in an application initiated by property owners, and a map showing the extent of ownerships shall be submitted with application materials. Applications to rezone property to PD shall be filed and processed in accordance with Chapter 14.27, Amendments. If property is already zoned PD, an approved development plan is required to develop the property.

B. Applications for development plans shall be initiated by submitting the following information to the planning department: a completed application form, signed by the property owner(s) or authorized agent, accompanied by the required fee, and any other information, plans or maps prescribed by the planning director. Standard information required for a development plan application is listed below in Section 14.07.060. Application procedures and processing timeframes shall be in accordance with state law and procedural guidelines established by the planning director.

(Ord. 1625 § 1 (part), 1992).

14.07.060 Required plans and materials.

In addition to the plans and materials required to accompany an application for a zoning map amendment as per Chapter 14.27, Amendments, an application for rezoning to a PD district shall include a development plan incorporating the information described below:

A. A map showing proposed district boundaries and the relationship of the district to uses and structures within a three hundred foot (300') radius of the district boundaries;

B. A map or aerial photo of the proposed district and three hundred feet (300') beyond its boundary showing sufficient topographic data to indicate clearly the character of the terrain; ridgelines and creeks; the type, location and condition of mature trees and other natural vegetation; and the location of existing development;

C. The proposed pattern of land use, with acreage, residential density or commercial intensity calculations. This shall include the total square footage of each type of nonresidential use proposed in order to assess parking and traffic impacts;

D. A site plan showing proposed street and lot patterns, and the location of all proposed buildings, structures, and other general site improvements;

E. A description of proposed setbacks, yard areas and height limits;

F. A plan showing location, grades, and widths of all streets; location and size of all utilities; drainage structures; parking areas; walkways; and other improvements;

G. Parking plan showing proposed parking layout and provisions for bicycle parking/storage;

H. A topographical map with average site slopes, or slopes of proposed lots, if applicable, and slopes of proposed streets;

I. Geotechnical data (preliminary geologic report, geotechnical investigation report, and/or hazardous waste investigation report, as per general plan appendices, geotechnical review matrix);

J. Traffic study;

K. Description of all open space and/or undeveloped areas and a statement indicating their intended disposition (i.e., deeded to property owners, dedicated to city, etc.);

L. Proposed subdivision map if property is proposed to be divided;

M. An enumeration of deviations between typical zoning ordinance standards for such uses and the proposed plan;

N. Phasing plan, if any;

O. Other information as may be prescribed by the planning director, depending on the type, location and potential impacts of the proposed development.

An application for development plan may be accompanied by an application for environmental and design review. If the development plan application is not accompanied by the environmental and design review application, the following preliminary design review information shall also be submitted as part of the development plan application:

P. Preliminary architectural elevations of all proposed buildings and structures;

Q. Conceptual landscape plans;

R. Preliminary grading plan;

S. Site photographs showing site and adjacent properties;

T. Other information as may be prescribed by the planning director.

(Ord. 1625 § 1 (part), 1992).

14.07.070 Initial consultation—Concept plan review.

Applicants may request an initial consultation with the planning director (or the planning director's designated appointee) ~~and/or a preliminary review by the design review board~~ to review proposed development at the conceptual plan stage. See Section 14.25.030, Application.

(Ord. 1625 § 1 (part), 1992).

14.07.080 Public notice and hearing.

A. The planning commission and city council shall hold public hearings to consider applications to rezone property to the PD district and/or a development plan application.

B. Notice of public hearings shall be given consistent with Chapter 14.29, Public Notice.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

14.07.090 Findings.

A recommendation by the planning commission to the city council or a decision by the city council to reclassify property to the PD district and/or to approve a development plan shall be based on the following set of required findings:

A. The development plan is consistent with the general plan, adopted neighborhood plans and other applicable city plans or policies;

B. Any residential development shall constitute a residential environment of sustained desirability and stability in harmony with the character of the surrounding neighborhood, and where applicable, adequate open space shall be provided;

C. Any nonresidential uses shall be appropriate in area, location and overall planning for the purpose intended, and the design and development standards shall create a nonresidential environment of sustained desirability and stability, and where applicable, adequate open space shall be provided;

D. The applicant demonstrates that public facilities are provided to serve the anticipated population;

E. The development is improved by deviations from typical zoning ordinance property development and parking standards; and

F. The auto, bicycle and pedestrian traffic system is adequately designed for circulation needs and public safety. Emergency vehicle access is provided to serve the proposed development.

(Ord. 1625 § 1 (part), 1992).

14.07.100 Contents of PD zoning approvals.

A. PD zoning approvals shall include a text summary of the approved development plan, including the range of allowable land uses, residential density, number and type(s) of residential units, commercial/industrial intensity, building square footage devoted to each type of nonresidential land use, site development standards including setbacks, building envelopes, lot coverage and height limits, parking, open space areas, outdoor amenities and any other critical components of development approval.

B. A master use permit or individual use permit(s) may be required as per Section 14.07.020 to establish specific use approvals and to evaluate compliance with trip allocations and parking standards.

(Ord. 1625 § 1 (part), 1992).

14.07.110 Notice of decision.

The planning commission or city council shall prepare a written decision which shall contain the findings of fact upon which such decision is based and conditions of approval, if any. The decision shall be mailed to the applicant(s).

(Ord. 1625 § 1 (part), 1992).

14.07.120 Effect of failure to give notice.

No action, inaction or recommendation regarding any development by the planning commission or city council shall be held void or invalid or be set aside by any court by reason of error or omission pertaining to the notices, including the failure to give any notice required by this section, unless the court after an examination of

the entire case shall be of the opinion that the error or omission complained of was prejudicial, and that by reason of such error or omission the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error or omission had not occurred or existed. There shall be no presumption that the error or omission is prejudicial or that injury was done if error or omission is shown.

(Ord. 1625 § 1 (part), 1992).

14.07.130 Effective date—Status of development plan.

PD zone designations without development plans are effective upon adoption of this zoning ordinance. Development plans for these PD districts, and any other PD districts with development plans, shall be effective on the same date as the ordinance for which they were or are approved. PD ordinances shall expire only upon rezoning to another zoning district. If no action has been taken on an approved development plan within five (5) years of its approval (or other timeframes specified by the approval) the city may initiate rezoning of the property.

(Ord. 1625 § 1 (part), 1992).

14.07.140 Zoning map designation.

A planned development district shall be noted by the designation "PD." PD districts with approved development plans shall be noted by the designation "PD," followed by the ordinance number approving the development plan.

(Ord. 1625 § 1 (part), 1992).

14.07.150 Amendments to PD zoning and development plans—New application.

Requests for changes in the contents of approval of a PD zoning and development plan shall be treated as a zoning amendment (rezoning). Rezonings shall be heard and decided by the city council. The procedures for filing and processing a rezoning shall be the same as those established for an initial PD zoning and development plan application.

(Ord. 1625 § 1 (part), 1992).

14.07.160 Revocation.

Any violation of a condition of approval of a development plan or a provision of this title shall be grounds for permit revocation, as provided in Chapter 14.29, Enforcement.

(Ord. 1625 § 1 (part), 1992).

14.07.170 New applications following denial or revocation.

If an application for a development plan is denied or revoked, no new application for the same, or substantially the same, development plan shall be filed within one year of the date of denial or revocation of the initial application, unless the denial is made without prejudice.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.08 MARINE DISTRICT (M)

14.08.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the specific purposes of the marine district (M) include the following:

A. To promote the canal as a navigable waterway and viable boating/maritime district;

B. To preserve limited canal-front sites for water-frontage-dependent uses in order to maintain the canal as a viable maritime/boating district;

C. To provide site opportunities for marine-related businesses which may benefit from proximity to water-frontage-dependent businesses and contribute to the maritime character of the district;

D. To provide site opportunities for canal-front parks and marine-related recreation;

E. To allow residential and nonmarine related office uses on the second floor or above of a mixed-use project;

F. To promote building design sensitive to waterfront locations;

G. To promote public access along the waterfront.

H. To allow site opportunities for retail, hotels and restaurants which promote public access to the canal.

(Ord. 1831 § 1 (part), 2004: Ord. 1625 § 1 (part), 1992).

14.08.020 Land use regulations (M).

P: Permitted by right; C: Conditional use permit; CZ: Conditional use permit/zoning administrator; A: Administrative use permit; Blank: Not allowed.

Table 14.08.020

Type of Land Use	M	Additional Use Regulations
Marine Uses		
Boat building and repair	C	
Boat sales and rentals	P	
Charter boat businesses	P	
Clubs and lodges, including youth groups, with a marine focus or purpose (boating, fishing, study of marine biology, etc.)	C	
Contractor's shops related to marine activities, including welding, small machinery repair and marine engine repair	CZ	
Equipment rentals related to boating, fishing, etc.	P	
Fish and bait sales, retail		
Indoors	P	
Outdoors	C	
Fishing enterprises, commercial and/or recreational, including support facilities (hoist, ice plant, storage, packing and sales area and related offices)	C	
Fishing supply stores, including bait and stores	P	
Fuel yards strictly for boats	C	
Marinas, including boat slips, offices (sales, management, etc.), harbor, clubhouse, marine-related retail and support	C	

services (restrooms, showers, laundry, caretaker's residence, pump-outs, etc.)		
Marine electronics: sales, manufacturing, assembly, testing or repairs (including electrical, electromechanical or electronic equipment, or systems related to harbor or marine activities)	C	
Marine industry sales, including boat machinery, parts and incidental hardware	P	
Marine supply stores	P	
Marine testing laboratories, research and development facilities	C	
Museum, marine-related	C	
Offices, business support for marine industry, including security	P	
Outdoor storage, including temporary or permanent storage containers	CZ	
Parks with marine recreational features or concessions	P	
Schools, sailing, boating, etc.	P	
Storage, boat (wet or dry)	P	
Warehousing, strictly for storage of boats, boat trailers and fishing gear	CZ	
Yacht clubs	C	
Commercial		
Food and beverage service establishments		
Cocktail lounges (without food service)	C	
Food service establishments (with or without incidental serving of beer or wine) and without a cocktail lounge, live entertainment and/or dancing		
(1) 1,000 sq. ft. or less in size	P	
(2) More than 1,000 sq. ft. in size	CZ	
Food service establishments with a cocktail lounge, live entertainment and/or dancing	CZ	
Live entertainment and/or dancing (without food service)	C	
Outdoor eating areas	A	For outdoor eating areas on private property, see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks, see Section 14.16.277 standards. For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70—"Streetaries" Outdoor Eating Areas.
Retail and Office Uses		
Retail and administrative, business and professional office uses listed as permitted or subject to use permit in general commercial district	P/C/A*	*See "Retail" heading in the General Commercial district for permitted and conditional retail and office uses. Non-marine related office use allowed on second floor or above in a mixed-use

		building. Ground floor non-marine office use is not allowed.
Public and Quasi-Public Uses		
Public utility facilities	C	
Residential and Visitor Accommodation Uses		Allowed on the second floor or above in a mixed-use project.
Multifamily residential	A	
Emergency shelters for the homeless		
Permanent	C	See Section 14.16.115 standards.
Temporary	C	
Home occupations	P	See Section 14.16.220 (Home Occupations).
Live/work quarters	A	See Section 14.17.100(C)(9) (Live/Work Quarters regulations).
Residential care facilities for the handicapped		
Small (0—6 residents)	P	
Large (7 or more residents)	P	
Residential care facilities, other		
Small (0—6 residents)	P	
Large (7 or more residents)	C	
Rooming or boarding houses	C	See Section 14.17.100(C)(8) (Boarding House regulations). Allowed on the second floor or above in a mixed-use project.
Caretaker's residence	CZ	
Hotels or motels	C	
Transportation Facilities		
"Park and ride" facilities	CZ	
Parking facilities, public	CZ	
Temporary Uses		
Temporary uses	A	See Chapter 14.17 standards.
Accessory Uses and Structures		
Accessory uses and structures customarily incidental to a permitted use and contained on the same site	P	See Chapter 14.16 regulations.

(Ord. 1838 § 28, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 25, 26, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 2016 , § 5, 10-3-2022)

14.08.030 Property development standards (M).

NR: Not required unless otherwise noted in Additional Standards.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to floor area ratio and site development standards. See Chapters 14.23, Variances, and 14.24, Exceptions, for allowable adjustments to these standards. See Chapter 14.25, Environmental and Design Review Permits, for a listing of improvements subject to review and design guidelines and criteria for development.

Table 14.08.030

	M	Additional Standards
Minimum lot area (sq. ft.)	6,000	
Minimum lot area/dwelling unit (sq. ft.) (Max. residential intensity)	2,000	(G)
Floor area ratio (Max. non-residential intensity)	*	*See Section 14.16.150
Minimum lot width (ft.)	60	
Minimum yards:		
Front (ft.)	NR	(A)
Side (ft.)	NR	(A)
Rear (ft.)	NR	(A)
Maximum height of structure (ft.)	36	(B), (C), (D)
Minimum landscaping	10%	(E)
Usable outdoor area		(F)
Parking	*	*Based on use. See Section 14.18.040.

(A) Where the frontage of a block is partially in a residential district, the front yard shall be the same as required for that residenti14al district, and when the side and/or rear of the lot(s) abuts a residential district, the respective side and/or rear yard shall be ten feet (10').

(B) Exceptions may be granted for a height above thirty-six feet (36'), subject to the provisions of Chapter 14.24, Exceptions. Lower height may be required consistent with the canalfront review overlay district, Chapter 14.15.

(C) Buildings existing or approved as of January 1, 1987, which are more than three (3) stories in height shall not be considered nonconforming, and are listed in Section 14.16.040, Buildings over three (3) stories.

(D) Hotels have a four-story height limit. A five-story height may be approved as part of an environmental and design review permit by the planning commission if it finds that the hotel will provide a significant community benefit, and the design is consistent with this title.

(E) For parking lot landscaping, see Section 14.18.160, Parking lot screening and landscaping.

(F) Provision of usable outdoor area is encouraged in residential development as part of a mixed-use project.

(G) A density bonus may be granted, as provided for in Section 14.16.090.

(Ord. 1831 § 1 (part), 2004; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 27, 28, 6-21-2010)

Chapter 14.09 PUBLIC/QUASI-PUBLIC DISTRICT (P/QP)

14.09.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the specific purposes of the public/quasi-public district include the following:

A. To provide sites for governmental, educational, public safety, public utility, residential and public transportation facilities.

B. To provide site opportunities for recreation and nonprofit community service facilities.

(Ord. 1831 § 1 (part), 2004; Ord. 1625 § 1 (part), 1992).

14.09.020 Land use regulations (P/QP).

P: Permitted by right; C: Conditional use permit; CZ: Conditional use permit/zoning administrator; A: Administrative use permit; Blank: Not allowed.

Table 14.09.020

Type of Land Use	P/QP	Additional Use Regulations
Public, Quasi-Public and Community Uses		
Community Gardens	P	Subject to Performance Standards Outlined in Chapter 14.17.
Public facilities		
Administrative offices (city and county, special district, public utility, etc.)	P	
Libraries, museums and other cultural facilities	P	
Public and utility facilities (corporation, maintenance or storage yards, pump stations, utility substations, storm drainage ponds, water tanks, utility distribution facilities, etc.)	C	
Safety facilities (police, fire or paramedics)	P	
Sewage or water treatment facilities, including wastewater ponds and irrigation areas	P	
Quasi-public service uses, including clubs and other service organizations, which pursue or provide programs such as day care, religious or similar use	C	
Schools		
Parochial, private	C	
Public	P	
Business, performing arts, vocational	CZ	
Use of school sites for other uses	C*	*May include: child care programs; educational, recreational, cultural and religious classes, programs and activities; administrative offices incidental to educational service

		uses; churches; counseling groups; and those private business uses which quality as home occupations.
Commercial Uses		
Funeral and interment services		
Cemeteries, mausoleums	P	
Recreation facilities (indoors or outdoors)	C	
Transportation Facilities		
Bus stations, public	C	
"Park and ride" facilities	CZ	
Road right-of-ways, slope easements or similar public improvements	C	
Transit stations, public, or transitways	C	
Residential Uses		
Single-family residential	C	
Duplex residential	C	
Multifamily residential	C	See Chapter 14.17 standards.
Rooming or boarding houses	C	See Chapter 14.17 standards.
Home occupations	P	See Chapter 14.16 standards.
Live/work quarters	A	See Chapter 14.17 standards.
Residential care facilities for the handicapped		
Small (0—6 residents)	P	
Large (7 or more residents)	P	
Residential care facilities, other		
Small (0—6 residents)	P	
Large (7 or more residents)	C	
Rooming or boarding houses	A	
Family day care		See Chapter 14.17 standards.
Small (0—6 children or adults)	P	
Large (7—12 children)	A	See Chapter 14.17 standards
Large (7—12 adults)	C	See Chapter 14.17 standards
Emergency shelters for the homeless		
Permanent	C	See Section 14.16.115
Rotating or temporary	C	
Day care center	CZ	
Temporary Uses		
Temporary uses	A	See Chapter 14.17 standards.
Accessory Structures and Uses		

Accessory structures and uses customarily incidental to a permitted use and contained on the same site.	P	See Chapter 14.16 regulations.

(Ord. 1831 § 1 (part), 2004; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1641 § 1 (part), 1993; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1964 , § 2(Exh. B) § 8, 11-19-2018)

14.09.030 Property development standards (P/QP).

NR: Not required unless otherwise noted in Additional Standards.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to floor area ratio and site development standards. See Chapters 14.23, Variances, and 14.24, Exceptions, for allowable adjustments to these standards. See Chapter 14.25, Environmental and Design Review Permits, for a listing of improvements subject to review and design guidelines and criteria for development.

Table 14.09.030

	P/QP	Additional Standards
Minimum lot area (sq. ft.)	NR	
Minimum lot area/dwelling unit (sq. ft.) (Max. residential intensity)	1,800	
Floor area ratio (Max. non-residential intensity)	*	* See Section 14.16.150
Minimum lot width (sq. ft.)	NR	
Minimum yards:		
Front (ft.)	NR	(A)
Side (ft.)	NR	(A)
Rear (ft.)	NR	(A)
Maximum height of structure (ft.)	36	(B), (C)
Maximum lot coverage	NR	
Minimum landscaping	10%	(D)
Parking	*	* Based on use. See Section 14.18.040

(A) Where the frontage of a block is partially in a residential district, the front yard shall be the same as required for that residential district, and when the side and/or rear of the lot(s) abuts a residential district, the respective side and/or rear yard shall be ten feet (10').

(B) Exceptions may be granted for a height above thirty-six feet (36'), subject to the provisions of Chapter 14.24, Exceptions.

(C) Buildings existing or approved as of January 1, 1987 which are more than three (3) stories in height shall not be considered nonconforming, and are listed in Section 14.16.040, Buildings over three (3) stories.

(D) For parking lot landscaping, see Section 14.18.160, Parking lot screening and landscaping.

(Ord. 1831 § 1 (part), 2004; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 29, 30, 6-21-2010)

Chapter 14.10 PARKS/OPEN SPACE DISTRICT (P/OS)

14.10.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the specific purposes of the parks/open space district include the following:

A. To provide appropriately located land throughout the city for public parks;

B. To provide opportunity for recreational uses in public parks;

C. To promote an integrated pattern of open space areas within the city to serve as visual greenbelts and community separators and to protect environmental resources;

D. To protect the public health and safety by limiting lands subject to flooding, slides or other hazards to open space use;

E. To preserve baylands, waterways and wetlands as open space;

F. To retain open space land in a natural open state;

G. To discourage public utility facilities in open space areas to minimize harm to the area's visual quality;

H. To allow low-intensity, passive recreational uses within open space areas and provide opportunity in appropriate locations for more intensive uses of open space which are consistent with the preservation of open space natural values and have minimal impacts on the environment.

(Ord. 1625 § 1 (part), 1992).

14.10.020 Land use regulations (P/OS).

P: Permitted by right; C: Conditional use permit; A: Administrative use permit; Blank: Not allowed.

Table 14.10.020

Type of Land Use	P/OS	Additional Use Regulations
Open space, public		
Animal grazing	C	
Animal husbandry	C	
Community Gardens	CZ	Subject to performance standards outlined in Chapter 14.17.
Horse keeping	C	
Riding stables	C	
Picnic area	C	
Trails (bicycle, equestrian, pedestrian)	C	
Wildlife preserves or sanctuaries	P	

Open space, private	P*	*Any of the uses listed under public open space, subject to any additional restrictions or other approved uses on an easement, grant, deed, map of record or private covenant.
Public parks, playgrounds and recreation facilities	P	
Private concessions in public parks	C	
Public/Quasi-Public Uses		
Public facilities		
Public and utility facilities (including pump stations, utility substations, storm drainage ponds and water tanks, and excluding corporation, maintenance or storage yards)	C	
Sewage or water treatment facilities, including wastewater ponds and irrigation areas	C	
Temporary Uses		
Temporary uses	A	See Chapter 14.17 standards.
Accessory Structures and Uses		
Accessory structures and uses customarily incidental to a permitted use and contained on the same site	P	See Chapter 14.16 regulations.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1964 , § 2(Exh. B) § 9, 11-19-2018)

14.10.030 Property development standards (P/OS).

NR: Not required, unless otherwise noted in Additional Standards.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to floor area ratio and site development standards. See Chapters 14.23, Variances, and 14.24, Exceptions, for allowable adjustments to these standards. See Chapter 14.25, Environmental and Design Review Permits, for a listing of improvements subject to review and design guidelines and criteria for development.

Table 14.10.030

	P/OS	Additional Standards
Minimum lot area (sq. ft.)	NR	
Minimum lot width (ft.)	NR	
Minimum yards:		
Front (ft.)	NR	
Side (ft.)	NR	
Rear (ft.)	NR	
Maximum height of structure	36	(A)

Parking	*	* Based on use. See Section 14.18.040

(A) Exceptions may be granted for a height above thirty-six feet (36'), subject to the provisions of Chapter 14.24, Exceptions.

(Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 31, 32, 6-21-2010)

Chapter 14.11 WATER DISTRICT (W)

14.11.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the purposes of the water district include the following:

A. To promote the waters of San Rafael as a navigable waterway and viable boating/maritime district;

B. To provide opportunities for limited water-dependent uses which require access to the water as a central element of its basic function, and which contribute to the maritime character of the district;

C. To provide opportunities for marine-related recreation;

D. To protect property from erosion from storms and high tides;

E. To improve water quality by preventing or reducing pollution caused by any means;

F. To protect and enhance wildlife habitat;

G. To provide opportunities for education and scientific research.

(Ord. 1625 § 1 (part), 1992).

14.11.020 Land use regulations (W).

P: Permitted by right; C: Conditional use permit: A: Administrative use permit; Blank: Not allowed.

Table 14.11.020

Type of Land Use	W	Additional Use Regulations
Boat docking facilities		
Ancillary use to a single-family residence	P	
Part of a marina or other nonresidential use	C	
Boat launching ramps	C	
Boat storage, wet	P	At docking facilities only or in areas designated by Chapter 17.20.
Charter boat businesses	P	At docking facilities only or in areas designated by Chapter 17.20.

Commercial fishing, shell fishing and trapping	C	
Open space, private	C	Limited to outdoor water-oriented recreational activities such as canoeing, boating and fishing.
Open space, public	P*	As permitted by the open space management plan and/or park master plan. If a plan has not been adopted, then a use permit is required.
Pier or wharf	C	
Parks, public, and recreation facilities	P*	
Recreation facilities, private, outdoors	C	Limited to outdoor water-oriented recreational activities such as canoeing, boating and fishing.
Terminal, ferry or similar marine transportation	C	
Wildlife preserve or sanctuary	P	
Public/Quasi-Public Uses		
Public facilities		
Public and utility facilities	P	
Public improvements (bridges, roads, seawalls, levees)	P	
Schools, sailing, boating, etc.	C	
Temporary Uses		
Temporary uses	C	
Accessory Structures and Uses		
Accessory structures and uses customarily incidental to a permitted use and contained on the same site.	C	See Chapter 14.16 regulations.

(Ord. 1625 § 1 (part), 1992).

14.11.030 Property development standards (W).

NR: Not required, unless otherwise noted in Additional Standards.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to floor area ratio and site development standards. See Chapters 14.23, Variances, and 14.24, Exceptions, for allowable adjustments to these standards. See Chapter 14.25, Environmental and Design Review Permits, for a listing of improvements subject to review and design guidelines and criteria for development.

Table 14.11.030

	W	Additional Standards
Minimum lot area (sq. ft.)	NR	(A)
Minimum lot width (feet)	NR	
Minimum yards:		
Front (ft.)	NR	(B)
Side (ft.)	NR	(B)
Rear (ft.)	NR	(B)
Maximum height of structure (feet)	36	

Maximum lot coverage (percent)	NR	(A), (C), (D), (E), (F)
Parking	*	* Based on use. See Section 14.18.040

(A) Loss of open waters due to filling shall be strictly avoided. Fill is subject to the provisions of Section 14.13.040(G), Fill. A use permit shall be required consistent with Sections 14.13.050, Application for a use permit, and 14.13.070, Findings. (Note: Fill in open waters is also subject to issuance of a tidelands permit from the department of public works, and any other permit required by local, state or federal law.)

(B) Development should not encroach into sensitive wildlife habitat areas, limit normal range areas or create barriers which cut off access to food or shelter.

(C) Other proposed activities, such as dredging within tidelands and/or open waters, requires a tidelands permit from the department of public works and may require other permits.

(D) Public access to the water or shoreline should be provided as identified on the recreation plan and the canal land use and access map of the general plan, and is encouraged elsewhere where appropriate.

(E) Views of the water shall be provided as identified on community design map A of the general plan, and is encouraged elsewhere through project design.

(F) For setbacks from creeks, the San Rafael Canal and drainageways, see Section 14.16.080, Creeks and other watercourses. For setbacks from wetlands, see Section 14.13.040(B), Wetland Setbacks.

(Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 33, 34, 6-21-2010)

Division III OVERLAY DISTRICT REGULATIONS

Chapter 14.12 HILLSIDE DEVELOPMENT OVERLAY DISTRICT (-H)

14.12.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the purposes of the hillside development overlay district include the following:

A. To protect public health and safety by minimizing hazards, including seismic and landslide risks, soil erosion and fire danger associated with development on steep and/or unstable slopes;

B. To encourage preservation of natural hillside features;

C. To ensure adequate emergency access by providing on-site parking;

D. To implement the residential site design policies of the general plan and the Hillside Residential Design Guidelines Manual.

(Ord. 1625 § 1 (part), 1992).

14.12.020 Criteria for establishment of hillside development overlay district.

A. These regulations shall apply to all lots with an average slope of twenty-five percent (25%) or greater, or located in the hillside resource residential or hillside residential general plan land use designations. The hillside development overlay district on the zoning map is placed on those lots which are in the hillside resource residential or hillside residential general plan land use districts.

B. Lots with an average slope greater than twenty-five percent (25%) not shown in the hillside development overlay district are presumed to exist in the city and are protected under all of the terms and provisions of this chapter. Development on such lots requires compliance with the requirements of the hillside development overlay district, except that such lots need not be rezoned to the hillside development overlay designations.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 35, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.12.030 Property development standards (-H).

Development standards shall be those of the underlying zoning district with which a hillside development overlay district is combined, provided that the following shall be in addition and shall govern where conflicts arise, except for subsection G, lot standards, where the lot size standard of the underlying zoning district applies when more restrictive than the subdivision ordinance. Subsections B, F, G, and I shall not apply to SB 9 Housing Developments (regulated by Section 14.15.282) or urban lot splits (regulated by Chapter 15.155—Urban Lot Splits).

A. Building Stepback. A building stepback is established to limit the height of structures to avoid excessive building bulk. The required stepback shall be follows:

1. On any downhill slope a twenty-foot (20') height limit measured from existing grade shall be observed. This height limit shall be construed to mean that wall planes shall be broken into single wall heights of no more than twenty feet (20') beyond which a stepback of at least five feet (5') is required, unless otherwise determined through the environmental and design review permit process. Regardless, the maximum overall building height shall not exceed the height allowed by the zoning district.

2. On non-downhill slope, walls facing front and side property lines shall have a twenty-foot (20') height limit measured from existing grade shall be observed within all areas within fifteen feet (15') of the maximum building envelope limit. To allow for design flexibility on non-downhill slopes, an encroachment into the street front, street side and interior side stepback is permitted along twenty-five percent (25%) of the building length.

Note: Please refer to the San Rafael Hillside Design Guidelines for examples.

B. Setbacks. Structures may encroach into a required yard or setback for a distance of not more than one-half (½) of the required yard or setback provided that the decrease minimizes the impact of hillside development and grading, subject to approval by the hearing body of an environmental and design review permit~~, with the recommendation of the design review board that the decrease minimizes the impact of hillside development and grading~~. If such a reduction is granted, a compensating increase in setback is required in the opposing setback, i.e., a five-foot reduction in a front yard setback would increase the rear yard setback by five feet (5').

C. Natural State. A minimum area of twenty-five percent (25%) of the lot area plus the percentage figure of average slope, not to exceed a maximum of eighty-five percent (85%), must remain in its natural

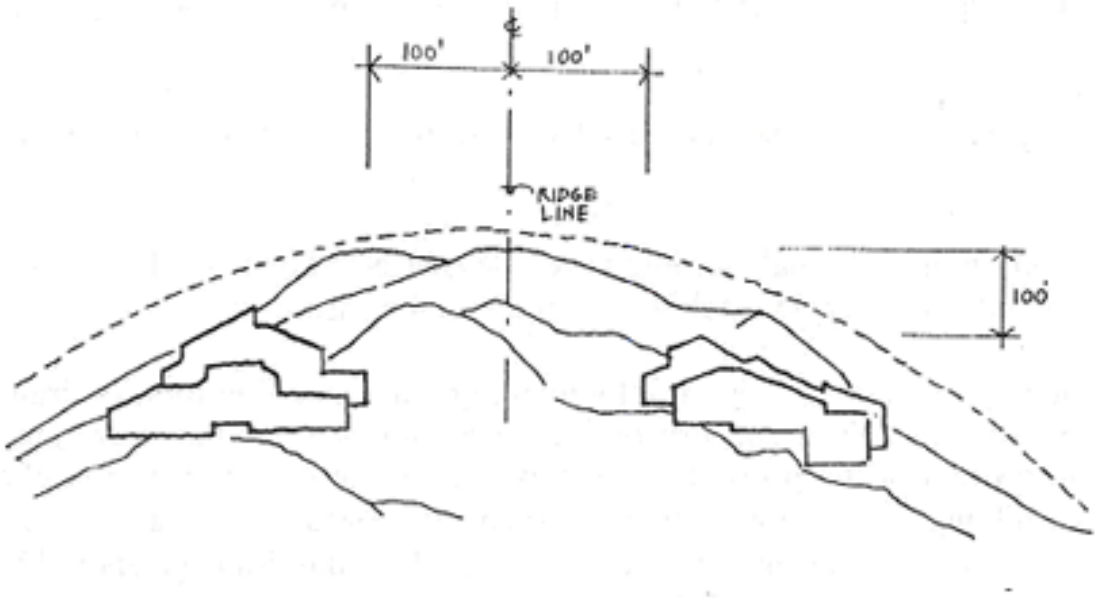
state. This standard may be waived or reduced for lots zoned PD (planned district) or developed with clustered development ~~with the recommendation of the design review board~~, subject to approval by the hearing body. This requirement does not apply to properties where the general plan has adopted a medium density residential or high density residential land use designation.

D. Gross Building Square Footage. The maximum permitted gross building square footage of all structures (including garages and accessory structures over one hundred twenty (120) square feet) is limited to two thousand five hundred (2,500) square feet plus ten percent (10%) of the lot area with the maximum gross square footage set at six thousand five hundred (6,500) square feet. This requirement does not apply to properties where the general plan has adopted a medium density residential or high density residential land use designation.

E. Ridgeline Development. Development of new structures within one hundred (100) vertical feet of a visually significant ridgeline, as shown on the community design map of the general plan, is prohibited unless this restriction precludes all reasonable economic use of the property. Exception: an exception to the ridgeline regulation may be granted if the decision-making body makes the findings that:

1. There are no site development alternatives which avoid ridgeline development;
2. The density has been reduced to the minimum allowed by the general plan land use designation density range;
3. No new subdivision lots are created which will result in ridgeline development; and
4. The proposed development will not have significant adverse visual impacts due to modifications for height, bulk, design, size, location, siting and landscaping which avoid or minimize the visual impacts of the development, as viewed from all public viewing areas.

ILLUSTRATION 14.12.030



F. Parking Requirements. On streets less than twenty-six feet (26') wide, a minimum of two (2) additional on-site parking spaces shall be provided (not on the driveway apron) for single-family residential development. These spaces should be conveniently placed relative to the dwelling unit which they predominately serve. This requirement may be waived or reduced by the hearing body when deemed appropriate or necessary to reduce the need for excessive grading or tree removal, and suitable off-site

parking is determined to be available. Further, vehicles should not be allowed to back-out onto a street less than twenty-six feet (26') wide unless approved by the hearing body as necessary to reduce the need for excessive grading or tree removal, or lessen driveway slope, and adequate sight distance, maneuvering area, driveway area, and backup space (which may include paved right-of-way) are provided to facilitate safe and efficient vehicle ingress/egress, as recommended by the public works department, fire marshal and community development director. Driveway and maneuvering areas shall consist of suitable all-weather pavement or permeable hardscape surface approved by the city.

G. Lot Standards. Minimum lot sizes and widths for lots created after November 21, 1991 are subject to the slope tables established under Chapter 15.07 of the subdivision ordinance.

H. Street and Driveways. New street and driveway grades shall not exceed eighteen percent (18%) unless an exception has been granted by the hearing body, and the design has been recommended by the ~~design review board~~ public works director and fire marshal to allow a driveway or street slope up to a maximum twenty-five percent (25%) grade. Streets and driveways with slopes over fifteen percent (15%) shall be a permanent, durable, non-asphalt hardscape surface. Streets and driveways with slopes over eighteen percent (18%) shall have grooves/scoring for traction. A suitable transition shall be provided at the street and driveway apron to allow vehicles to safely transition to/from roadways and parking areas, as recommended by the department of public works. Further, the design of the driveway apron at the garage shall be subject to review and recommendation from the department of public works to ensure safe and efficient vehicle ingress and egress.

I. Design Review Requirement. An environmental and design review permit may be required, consistent with the requirements of Chapter 14.25, Environmental and Design Review Permits. All applications shall be evaluated for conformity with the Hillside Residential Design Guidelines Manual.

(Ord. 1838 § 29, 2005; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 36—38, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1964 , § 2(Exh. B) § 10, 11-19-2018; Ord. No. 2013 , § 4, 8-1-2022)

14.12.040 Exceptions to property development standards.

City Council Exception Required. Exceptions to the property development standards of this chapter may be approved by the city council~~, upon the recommendation of the design review board and the planning commission,~~ when the applicant has demonstrated that alternative design concepts carry out the objectives of this chapter and are consistent with the general plan based on the following criteria:

A. The project design alternative meets the stated objectives of the hillside design guidelines to preserve the inherent characteristics of hillside sites, display sensitivity to the natural hillside setting and compatibility with nearby hillside neighborhoods, and maintain a strong relationship to the natural setting; and

B. Alternative design solutions which minimize grading, retain more of the project site in its natural state, minimize visual impacts, protect significant trees, or protect natural resources result in a demonstrably superior project with greater sensitivity to the natural setting and compatibility with and sensitivity to nearby structures.

This section shall not apply to SB 9 Housing Developments (regulated by Section 14.15.282) or urban lot splits (regulated by Chapter 15.155—Urban Lot Splits).

(Ord. 1663 § 1 (part), 1994).

(Ord. No. 1882, Exh. A, § 39, 6-21-2010; Ord. No. 2013 , § 4, 8-1-2022)

Chapter 14.13 WETLAND OVERLAY DISTRICT (-WO)

14.13.010 Specific purposes.

Wetlands are indispensable and fragile natural resources subject to flooding, erosion, soil-bearing capacity limitations and other hazards. Destruction of or damage to wetlands threatens public safety and the general welfare. In addition to the general purposes listed in Section 14.01.030 and the purposes of the underlying zoning district, the purposes of the wetland overlay district include the following:

A. To preserve and enhance the remaining wetlands in San Rafael by encouraging their use only for purposes compatible with their natural functions and environmental benefits;

B. To prohibit in wetlands and discourage at adjacent upland sites those development activities that may adversely affect wetlands;

C. To design development to avoid or minimize adverse impacts on wetland habitat;

D. To encourage restoration of wetland sites;

E. To prevent loss of life, property damage and other losses and risks associated with flooding by providing floodwater passage for stormwater runoff and floodwaters that coincide with high tides;

F. To protect property values by preventing damage from erosion from storms and high tides;

G. To contribute to improved water quality by preventing or reducing increases in pollution caused by any means;

H. To protect and enhance wildlife habitat, including that of rare, threatened and endangered plant and animal species;

I. To provide sites for education and scientific research;

J. To provide opportunities for recreational activities compatible with wetland habitat.

(Ord. 1625 § 1 (part), 1992).

14.13.020 Criteria for establishment of wetland overlay (-WO) district for identified and unidentified wetlands.

A. These regulations shall apply to all properties located within the city of San Rafael that contain wetlands. The wetland overlay district that is classified on the city's zoning map is applied and adopted on those properties which contain wetlands that have been identified and confirmed by the U.S. Army Corps of Engineers. An inventory of properties that contain known and confirmed wetlands is available in the community development department.

B. Wetlands are known to exist throughout the community that are not identified or shown in the wetland overlay district, as they are typically discovered and confirmed as part of a site-specific assessment. Nonetheless, all wetlands are protected under all of the terms and provisions of this chapter. A property containing wetlands that have been confirmed by the U.S. Army Corps of Engineers shall be rezoned to combine the wetland overlay district with the base zoning adopted for the property.

C. Submerged properties and tidelands lots that are located within the Water (W) District require compliance with the provisions of the -WO District, except that such properties need not be rezoned to the -WO District.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.13.030 Land use regulations (-WO).

P: Permitted by right; C: Conditional use permit; Blank: Not allowed.

Table 14.13.030

Type of Land Use	WO	Additional Use Regulations
Underlying Zoning District Uses	C	(A), (B), (C), (D)
Open Space/Parks/Recreation		
Agriculture, cultivation of crops	C	Excludes cultivation of cannabis, which is prohibited throughout the City of San Rafael
Open space, private		
Uses allowed in a public open space	C	(A), (B), (C), (D)
Uses allowed in a private covenant	C	(A), (B), (C), (D)
Open space, public		
Animal grazing	P*	*As permitted by the open space management plan and/or park plan conforming with the wetland use regulations. If a plan has not been adopted, then use regulations (A), (B), (C) and (D) apply with a use permit.
Animal husbandry	P*	
Horse keeping	P*	
Riding stables	P*	
Picnic areas	P*	
Trails	P*	
Public parks, playgrounds and recreation facilities	P*	
Private concessions in public parks	P*	
Recreation facilities, private (indoors and outdoors)	C	(A), (B), (C), (D)
Wildlife preserves or sanctuaries	C	(A), (B), (C), (D)
Public/Quasi-Public Uses		
Public facilities		
Public and utility facilities (pump stations, utility substations, storm drainage, ponds, water tanks, transmission facilities)	P*	
Public improvements (bridges, roads and levees)	P*	
Sewage or water treatment facilities, including wastewater ponds and irrigation areas	P*	
Schools		
Parochial, private	C	(A), (B), (C), (D)
Public	C	(A), (B), (C), (D)

(A) In wetlands, the only uses allowed are the construction and maintenance of water-related structures such as piers, docks, walkways, observation decks and shelters, fences, wildlife management shelters, stormwater pumps and bridges.

(B) Provided that any and all necessary permits or approvals required by local, state or federal law shall be obtained.

(C) Uses in or near wetland areas shall be controlled or designed to have minimal adverse impact on wetland habitat.

(D) Recreation/scientific activities in or near wetlands should be low intensity uses, such as bird watching, fishing, nature photography and study, wildlife observation and scientific research and education.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1955 , (Exh. A, § 7), 3-19-2018)

14.13.040 Property development regulations (-WO).

The required and applied development standards shall be those standards adopted for the underlying zoning district with which a -WO District is combined, provided that the following additional requirements shall apply and shall govern where conflicts arise.

A. Structures in Wetlands. Any structures that are allowed to be placed in wetland areas (per Section 14.13.030(A)) must be designed and constructed to minimize adverse impacts on wetlands through construction on pilings to allow unobstructed flow of water, so as to preserve the natural contour of the wetland and to minimize impairment, alteration or loss of wetlands.

B. Wetland Setbacks.

1. A wetland setback shall be measured from the edge of a wetland, as determined through application of the procedures in Section 14.13.05(A), Determination of wetland boundaries. The setback from a creek or drainage way wetland, or from the San Rafael Canal, shall be established and measured consistent with the provisions of Section 14.16.080, Creeks and other watercourses of this title.

2. For wetlands which are neither creeks nor drainage ways, a development-free setback of fifty feet (50'), including but not limited to paving and structures, shall be required. A wetland setback of greater than fifty feet (50') in width may be required on properties larger than two (2) acres in size, as determined through the site development review process.

3. An exception to the minimum wetland setback requirement may be granted by the planning commission for minor encroachments, which would permit a setback reduction of no more than ten percent (10%) of the minimum setback requirement. A minor encroachment may be granted provided that the following can be demonstrated by a qualified wetland expert to the satisfaction of the city:

a. The reduced setback or minor encroachment adequately protects the functions of the wetland to the maximum extent feasible; and the environmental values of the wetland will not be impacted by the reduced setback or minor encroachment.

City review of an exception from the minimum wetland setback requirement shall include consultation with, and consideration of, comments from the appropriate resource agencies such as the State of California Department of Fish and Wildlife.

C. Buffer Measures within Wetland Setback. Within the wetland setback, appropriate measures, such as fencing and screening, landscaping, and natural habitat areas are required to minimize adverse impacts on wetlands and wetland habitat.

D. Landscaping and Vegetation within Wetland Setback. Landscaping and vegetation installed within the wetland setback shall be native plant species that are indigenous to the area and selected to enhance and/or protect habitat for the present wildlife species.

E. Erosion and Sedimentation Control. During construction, every precaution shall be taken to prevent the disruption or degradation of adjacent wetlands. Best-management practices shall be required to minimize siltation, sedimentation and erosion, subject to approval by the department of public works.

To ensure that sediment remains on the site and is not transported into wetlands, erosion and sediment controls shall be left in place until the site is stabilized with permanent vegetation.

F. Stormwater Runoff. Stormwater runoff systems shall be designed to:

1) Maintain adequate water flows to the wetland so as to maintain its integrity; and

2) Ensure that stormwater runoff is substantially free of debris, pollutants and silt. Stormwater runoff management proposals shall be submitted and are subject to approval by the community development department, planning division and the department of public works.

G. Fill. Loss of wetlands due to filling shall be strictly avoided, unless it is not possible or practical. Filling of wetlands is permitted only when it is demonstrated and determined that, due to site constraints and unique site conditions, wetland fill cannot be avoided by reducing the size, scope, configuration, intensity or density of the development, or by changing the design of the development in a way that would avoid or result in fewer adverse effects on the wetland.

1. Mitigation for fill. If it is demonstrated that wetland fill cannot be avoided, the planning commission may approve a use permit to authorize this fill, provided that the filled wetland is replaced, in-kind and on-site at a minimum ratio of 2:1 (two (2) acres of new wetland for every one (1) acre of wetland that is filled). If it is not possible or practical to create new, on-site wetland, off-site, in-kind replacement shall be required at a minimum ratio of 3:1. All wetland fill and replacement shall be reviewed and authorized consistent with the provisions of Section 14.13.080(C), Required wetland restoration or creation, and Section 14.13.070, Findings.

2. Waiver. A waiver to the fill regulations may be granted by the planning commission for fill of small wetlands that are 0.1-acre in size provided that:

a. the wetland is isolated meaning that it is not within, a part of, directly connected with or hydrologically-linked by natural flow to a creek, drainageway, wetland or submerged tidelands;

b. it is demonstrated by a qualified wetland expert the preservation of the wetland is not practical as it would not result in a functioning, biological resources because of its isolation;

c. the city has determined that filling will result in a more appropriate and desirable site plan for the project; and

d. the city consults with and considers comments received from the appropriate resource agencies with wetland oversight (e.g., California Department of Fish and Wildlife and/or California Regional Water Quality Control Board).

H. Incentives for Wetland Creation. To encourage the creation of new wetland areas, an exception to the property development regulations of the underlying zoning district pertaining to setbacks, height, landscaping and useable outdoor area may be granted consistent with Section 14.13.080(A), Incentives for wetland creation.

I. Wetland Vegetation. Removal of wetland vegetation or changing of drainage characteristics by private parties which adversely affects wetlands shall be avoided and requires a use permit (see Section 14.13.070, Findings).

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.13.050 Application for a use permit.

A. Determination of Wetland Boundaries. The specific boundaries of a wetland shall be determined by one (1) of the following methods:

1. The U.S. Army Corps of Engineers will, at the request of the applicant, make a jurisdictional determination delineating wetland boundaries; or,

2. A qualified wetland expert, at the request of the applicant, may identify the wetland boundary in accordance with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, as most recently adopted. The Corps shall verify the accuracy of, and may render adjustments to, the boundary delineation. The wetland boundaries shall be those with which the Corps concurs. Corps concurrence shall occur prior to issuance of a building and/or grading permit. Should there be an adjustment by the Corps to a wetland boundary which affects wetland setbacks or a use permit for fill, a use permit amendment shall be required, consistent with Chapter 14.22, Use Permits.

3. For development where no fill of wetlands is proposed, a qualified wetland expert, at the expense of the applicant, may identify the wetland boundary in accordance with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, as most recently adopted. In lieu of Corps verification of the delineation, the applicant may pay the city for the hiring of an independent, qualified wetlands biologist to verify and, if necessary, modify the wetland boundaries.

B. Agency/Organization Consultations. The applicant for a use permit is strongly encouraged to consult with the U.S. Army Corps of Engineers, as well as the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, California Department of Fish and Game, California Coastal Conservancy, California State Lands Commission, San Francisco Bay conservation and development commission, San Francisco Bay regional water quality control board, Marin-Sonoma mosquito abatement district and any other appropriate agencies or organizations early in the planning process. The application for a use permit should include a record of the persons consulted in each of the appropriate agencies or organizations.

C. Required Information. In addition to the above requirements, the following information shall be submitted by an applicant for a use permit in the wetland overlay district.

1. Project description with an assessment of impacts of the proposed use and development on wetlands and associated wildlife, including adjacent wetlands and adjacent uplands. For development which proposes a wetland setback less than one hundred feet (100') on a lot larger than two (two) acres in size, and/or a setback from a drainageway, include a description of how the proposed setback adequately protects the value of the wetland habitat. For development which proposes fill in a wetland, include the following:

a. An explanation of why the proposed development cannot be accomplished by a reduction in the size, scope, configuration or density of a development,

b. A biological assessment of the current habitat values of any wetlands proposed to be lost including local and regional habitat values,

c. Identify mitigation site(s) and how it would be permanently protected;

2. Project purpose, stating the general function and objectives of the development, and showing that, if achieved, the proposed avoidance or mitigation measures would result in no net loss of wetlands;

3. Wetland map drawn to scale, delineating the extent of the wetland(s) on the site; indicating the jurisdictional boundaries of the Corps and other public agencies; mapping soil and vegetation types according to the classification system outlined in the Federal Manual for Identifying and Delineating

Jurisdictional Wetlands as most recently adopted; and, showing water sources with a general characterization of the wildlife habitat;

4. Site plan showing the location and dimensions of all existing and proposed structures, roads and other installations within two hundred feet (200') of the wetland boundaries, both on-site and off-site; and the relationship of the proposed activity and any potentially affected wetland to the entire site owned by the applicant;

5. Grading and drainage plan showing elevations of the site and adjacent lands within a minimum of two hundred feet (200') of the wetland boundaries, both on-site and off-site, at one (1) foot contour intervals; water sources; the location and specifications for all proposed filling, grading and vegetation removal, including the amounts and methods; and drainage patterns. Demonstrate acceptable erosion and sedimentation control, appropriate stormwater runoff management and adequate wildlife habitat protection during the construction period;

6. Construction schedule of the proposed construction sequence, showing when each stage of the development will be completed, including the total area of soil surface to be disturbed during each stage and estimated starting and completion dates. In no case shall the existing natural vegetation be destroyed, removed or disturbed more than fifteen (15) days prior to initiation of the construction activities.

D. Modifications to List of Required Information. The planning director may, prior to determination of completeness date, waive the submission of listed information, or may require additional information when necessary to verify compliance with the provisions of this chapter, or to evaluate the proposed use.

(Ord. 1625 § 1 (part), 1992).

14.13.060 Conditions of approval.

In approving a use permit, the planning commission may impose reasonable conditions. If a use adversely affects existing wetlands, such as altering hydrological conditions, the use permit application may be denied, or mitigation measures may be required. Where fill is proposed, wetland restoration or creation shall be required, accordant with Section 14.13.080(C), Required wetland restoration or creation. Where applicable, and as a condition of approval prior to issuance of a building permit, the following may be required by the planning department:

A. Verification of Corps concurrence with the applicant's determination of wetland boundaries; and/or,

B. A Section 404 or Section 10 permit (or its equivalent successor) from the U.S. Army Corps of Engineers; and/or,

C. A letter from the California State Department of Fish and Game stating compliance with its Wetlands Policy; and/or,

D. A Certificate of Conformance With Water Quality Standards issued by the State Water Resources Control Board; and/or,

E. A permit from the bay conservation and development commission.

(Ord. 1625 § 1 (part), 1992).

14.13.070 Findings.

A. Uses Within a Wetland. The planning commission may approve an application for a use permit for a proposed use within a wetland as allowed in Section 14.13.030, Land use regulations, if it is found that the

proposed use is consistent with the purposes of Section 14.13.010, Specific purposes, and that the proposed use:

1. Is a water-related structure as identified in Section 14.13.030, Land use regulations; and,
2. Minimizes impairment to the wetland's functional characteristics, existing contour and wildlife habitat; and,
3. Complies with all wetland regulations contained herein; and,
4. Cannot be accomplished by a reduction in the size, scope, configuration or density of the development as proposed, or by changing the design of the development in a way that would avoid or result in fewer adverse effects on the wetland.

B. Uses Outside of a Wetland. The planning commission may approve an application for a use permit for a proposed use outside a wetland as allowed in Section 14.13.030, Land use regulations, if it is found that the proposed use is consistent with the purposes of the base district, and:

1. Minimizes impairment to the adjacent wetland's functional characteristics and wildlife habitat; and,
2. Complies with all wetland regulations contained herein.

(Ord. 1625 § 1 (part), 1992).

14.13.080 Wetland restoration and creation.

A. Incentives for Wetland Creation. Where a property owner proposes to expand an existing on-site wetland, and where no fill in an existing wetland is proposed, the planning commission may grant an exception to the property development standards of the underlying base district. An exception shall not be granted for wetlands created as a condition of approval for fill in a wetland, and is limited to the following site development regulations:

1. Setbacks. The minimum setbacks from the lot lines of the underlying zoning district may be decreased where the proposed setback is in character with the surrounding development, and where such decrease will not unreasonably affect abutting sites nor reduce wetland setbacks.
2. Height. The maximum allowed building height for a residential structure may be increased to no greater than thirty-six (36') feet where scenic views or solar access on surrounding properties are not affected, and where the proposed height is in character with the surrounding development.
3. Landscaping. Wetlands may be included as fulfilling part of the landscaping requirements, except that the requirement for parking lot landscaping shall be met.
4. Usable Outdoor Area. Wetlands may be included as fulfilling part of the usable outdoor area requirements of this title where the building and landscape design is such that the residents of the building may participate in passive outdoor recreational activities such as bird watching, fishing and nature photography.

B. The planning commission may approve an exception to the property development standards of the underlying base district, if it finds that:

1. The proposed development is consistent with the intent of the provisions of the underlying zoning district development regulations and with other applicable provisions of this title;
2. The proposed development adequately protects the value of the wetland habitat; and,
3. There is a net gain in wetland quality and no fill in or damage to existing wetlands on the site.

C. Required Wetland Restoration or Creation. The purpose of this section is to prevent a loss of wetlands by ensuring new wetlands when fill is proposed. Wetland restoration or creation shall be required for fill in a wetland, per Section 14.13.040(G), Fill. Wetland restoration or creation shall meet the following minimum standards and shall occur pursuant to an approved wetland management plan (Section 14.13.090):

1. On-Site Wetland Restoration or Creation. The restoration or creation of wetlands shall be of at least equal quality and of a similar type to that of the existing wetlands, and on or adjacent to the site, where possible.

2. Off-Site Wetland Restoration or Creation. Where the applicant has demonstrated to the planning commission that restoration or creation on-site or adjacent to the site is infeasible due to technical constraints, such as lot or wetland size or wetland type, or that a wetland of a different type or location is strongly justified based on regional needs or the functional value of the impacted wetland, the planning commission may accept or recommend an alternative proposal for restoration or creation of a wetland off-site.

3. Timing of Wetland Restoration or Creation. Restoration or creation of wetlands should be completed prior to construction of the development. Where implementation of a development would adversely affect mitigation efforts, construction activities may be started prior to restoration or creation of wetlands.

(Ord. 1625 § 1 (part), 1992).

14.13.090 Wetland management plan.

An applicant for a use permit for fill shall be required to submit a wetland management plan prepared by a qualified wetlands expert. An applicant for a use permit for a conditional use in a wetland, or as part of environmental review under the California Environmental Quality Act may be required to prepare a wetland management plan.

A. Required Information. A wetland management plan shall include any or all of the following items as deemed necessary by the planning director:

1. Goals and objectives, including a description of the functional relationships sought in the new wetland, such as habitat areas, topography and soil characteristics, water flow patterns and water levels, and upland buffers;

2. Wetland preservation, restoration, and creation techniques and standards, identifying the location and size of wetland areas to be preserved, restored or created, and including:

a. Water-quality parameters, water source, water depths, water-control structures and water-level maintenance practices needed to achieve the necessary ambient water conditions and characteristics,

b. Planting plans (identifying target wildlife species) specifying plant species, quantities, locations, size, spacing or density; source of plant materials or seeds; timing, season, water and nutrient requirements for planting; and, plant protection measures,

c. Site preparation specifications for, if needed, soil amendments, removal of unsuitable fill and weed control,

d. Wetland protection measures for minimizing impacts during grading and construction, and for minimizing disturbances to wildlife habitat,

e. Mosquito management, demonstrating ecological mosquito control developed in consultation with the Marin-Sonoma mosquito abatement district, and

f. For wetland creation, identification of disposal area for any dredged material;

3. Implementation and monitoring plan, providing:

a. Specific criteria for evaluating whether or not the goals of the wetland management plan are being achieved at various stages in the development,

b. Specifications for irrigation as needed, removal of exotic and nuisance vegetation, and maintenance,

c. Responsibility for monitoring the hydrology, vegetation and wildlife of the wetland with a specified monitoring time frame (five (5) years recommended for tidal marshes and ten (10) years recommended for other wetlands),

d. Provision for correction of design defects in the plan and any needed plant replacement,

e. Identification of method(s) used to ensure that the wetland will be protected in perpetuity;

4. Management organization, demonstrating fiscal, administrative and technical competence of sufficient standing to successfully execute the overall development;

5. Cost estimate, sufficient to cover the cost of implementing and maintaining the wetland. In addition, bonds ensuring fulfillment of the development may be required.

B. Approval of a Wetland Management Plan. A wetland management plan may be approved, approved with conditions or disapproved by the planning commission, with the commission's decision appealable to the city council, upon finding that it is consistent with the purposes of this chapter.

(Ord. 1625 § 1 (part), 1992).

14.13.100 Enforcement.

In the event of illegal fill or similar activity, such as grading, dredging, removal of wetland vegetation by private parties or changing of drainage characteristics by private parties which adversely impacts a wetland, the city council shall have the power to order wetland restoration and creation measures for the damaged or destroyed wetland area by the person or agent responsible for the violation, consistent with the fill regulations in Section 14.13.040(G), Fill. If the responsible person or agent does not complete such measures within a reasonable time following the order, the city may undertake to restore the affected wetland to its prior condition and/or create or restore other wetlands for the purpose of offsetting losses sustained as a result of the violation at the expense of the property owner and/or the person or agent responsible for the violation. Covered expenses include all wetland restoration or creation costs as well as administration and enforcement costs. To guide restoration and creation actions, the planning department shall have the power to order the property owner and/or the person or agent responsible for the violation to develop a plan as described in Section 14.13.090, Wetland management plan.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.14 EICHLER AND ALLIANCE HOMES OVERLAY DISTRICT (-E/A)

14.14.010 Specific purposes.

The Eichler and Alliance Homes overlay district is intended to modify the site development regulations of the R residential districts to preserve and maintain the predominately single-story and unique design character of neighborhoods composed exclusively of Eichler and Alliance homes.

(Ord. 1819 § 1 (part), 2004).

14.14.020 Property development standards.

For sites within the Eichler and Alliance Homes overlay district, the following site development regulations shall apply in lieu of the otherwise applicable site development regulations of Section 14.04.030:

a. Height. The maximum height shall be seventeen feet (17′), as measured from grade to the peak of the roof.

b. Habitable Floor Limitations. There shall be a limit of one habitable floor. Habitable floors include lofts, mezzanines and similar areas.

(Ord. 1819 § 1 (part), 2004).

14.14.030 Design review of roof modifications.

Modifications which increase the height of roof structures by more than six inches (6") or change the roof pitch, including the creation of raised or sloping roofs, covered atriums that exceed the existing roof height, clerestories or exposed exterior ducting, but excluding the addition of solar collectors, shall be subject to design review as set forth in Section 14.25.040(C) of this title. The measurement of the increase in roof height for building additions shall be made from the immediately adjacent roof elevations.

(Ord. 1838 § 30, 2005: Ord. 1819 § 1 (part), 2004).

Chapter 14.15 CANALFRONT REVIEW OVERLAY DISTRICT (-C)

14.15.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, Purposes, and the purposes of the underlying zoning district, the specific purposes of the canalfront review overlay district include the following:

A. Protect the unique physical and social characteristics of the canalfront area;

B. Enhance the canalfront orientation of existing structures;

C. Insure canalfront-oriented design in new development;

D. Improve public views and access to the canalfront;

E. Promote design excellence by encouraging creative development project design and the innovative use of materials and methods and techniques.

(Ord. 1625 § 1 (part), 1992).

14.15.020 Authority.

The planning commission, zoning administrator or planning director may approve, conditionally approve or deny applications for an environmental and design review permit in the canalfront review overlay district. The authority for determination on major, minor and administrative environmental and design review permits in the canalfront review overlay district is identified in Section 14.25.020, Authority.

(Ord. 1625 § 1 (part), 1992).

14.15.030 Application.

An application for an environmental and design review permit in the canalfront review overlay district shall be initiated by submitting to the planning department a completed application form, signed by the property owner or authorized agent, accompanied by the required fee and information as required by Section 14.25.030, Application.

(Ord. 1625 § 1 (part), 1992).

14.15.040 Improvements subject to review.

No improvement subject to review in Section 14.25.040, Improvements subject to review, shall hereafter be constructed, located, repaired, altered, expanded or thereafter maintained, except in accordance with a design approved as consistent with the canalfront design review guidelines.

(Ord. 1625 § 1 (part), 1992).

14.15.050 Canalfront design criteria.

Development standards shall be those of the underlying zoning district with which the canalfront review overlay district is combined, provided that the following mandatory requirements shall be in addition and shall govern where conflicts arise. The discretionary guidelines are intended to assist the designer in understanding city design policies for development in the canalfront area. The following criteria shall be in addition to the design criteria of Section 14.25.050, Review criteria.

A. Site Design. Design factors which must be considered include the development of the canal as an attractive amenity; orientation of the development to the canalfront; pedestrian and bicycle access and linkages where appropriate; and canal view protection and enhancement. Setbacks along the canal are required to preserve and enhance wildlife habitat, to provide public access and/or to provide for levee maintenance.

B. Architecture. Low-scale buildings that protect public views of the water and which do not dominate the canal shall be required. High quality waterfront-oriented design as viewed from the canal as well as the street is encouraged.

C. Colors/Materials. Colors and materials shall be consistent with Section 14.25.050(F)(2), Materials and Colors.

(Ord. 1625 § 1 (part), 1992).

14.15.060 Processing.

The application for a canalfront review overlay district design review permit shall be processed consistent with the provisions of Chapter 14.25, Environmental and Design Review Permits.

(Ord. 1625 § 1 (part), 1992).

Division IV REGULATIONS APPLYING IN ALL OR SEVERAL DISTRICTS

Chapter 14.16 SITE AND USE REGULATIONS

14.16.010 Specific purposes and applicability.

Site and use regulations are development standards that are applicable to sites in all or several districts. The site and use regulations listed in this section are intended to ensure that new uses and development will contribute to and be harmonious with existing development, will reduce hazards to the public resulting from the inappropriate location, use or design of buildings and other improvements, and will be consistent with the policies of the general plan. These regulations shall be applied as specified in the district regulations, and as presented in this chapter.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.020 Accessory structures.

An accessory structure (i.e., a customarily incidental structure detached from a principal building on the same lot) shall comply with all requirements for principal buildings, with the following exceptions and additional requirements:

A. Applicability. These standards shall apply to all zoning districts that permit accessory structures (i.e. a structure detached from a principal building on the same lot, as defined in Section 14.03.030), and shall be in addition to all other standards regulating development of the site. Where any conflict is found to exist, the more restrictive standard shall be applied.

B. Timing of Installation. An accessory structure shall be constructed concurrent with or subsequent to the construction of a principal building on the property.

C. Building code compliance. Additional setbacks from property lines or adjacent structures shall be provided where required to comply with applicable building codes, as determined by the building official.

D. Small Wind Energy Systems. Small wind energy systems shall be permitted as regulated under Section 14.16.305.

E. Residential Accessory Structures. The following standards shall apply to accessory structures in residential districts:

1. Front and Street Side Yard Setbacks.

a. Fountains, trellises, statues and similar decorative yard improvements up to four feet (4’) in height, fences, small retaining walls and minor decorative entryway treatments as permitted pursuant to Section 14.16.140.A.1, decks less than twelve inches (12”) above grade, and access driveways and walkways may be located within the required front yard setback and/or street side yard setback; provided that such accessory structure shall not conflict with the sight distance triangle of an intersections or driveway required pursuant to Section 14.16.295.

b. No other structures or improvements shall be placed within a required front yard or street side yard.

c. No swimming pool, hot tub, air conditioning unit or mechanical equipment shall encroach into any front yard or street side yard setback.

d. Accessory structures shall meet the setback requirements for reverse corner lots, contained in Section 14.04.030(D).

e. Detached accessory structures may only be placed between the front-facing wall of the primary structure and the front setback with administrative design review, except as allowed by Section 14.16.020.E.1.a. This requirement does not apply to garage or carport structures which must comply with the setbacks established by the applicable zoning district.

2. Interior Side and Rear Yard Setbacks.

a. Zero-foot (0') Setback. The following accessory structures may be located within the required interior side and rear yard setbacks, and up to the property line, subject to conformance with any applicable building code limitations and provision of an unobstructed walkway clearance of at least three feet (3') between above-grade accessory structures and adjacent buildings or the property line in order to provide access around the primary building:

i. Accessory structures, unconditioned (e.g., not intended for human occupancy) with a maximum floor area of one hundred twenty (120) square feet and up to eight feet (8') in height measured from grade to roof peak;

ii. Fountains, trellises, statues and decorative yard improvements no taller than six feet (6') in height;

iii. Retaining walls up to four feet (4') in height above grade (e.g., exposed wall height above finished grade, as determined by the community development director);

iv. At-grade walkways and decks less than twelve inches (12") above grade.

b. Three-foot (3') Minimum Setback. The following accessory structures may be located within three feet (3') of the rear and interior side yard property line:

i. Accessory structures greater than one hundred twenty (120) square feet in floor area and up to fifteen feet (15') in height measured from grade to roof peak;

ii. Fireplaces, barbecues, self-contained portable spas, spa/pool equipment (additional setbacks and limitations on the placement of spa/pool pump and filtration systems shall be as specified in Section 14.16.320);

iii. Uncovered decks twelve inches (12") or more above grade.

c. Pools/in-ground spas. A setback of at least three feet (3') or a distance equal to one-half (½) the depth of the pool, whichever is greater, shall be provided from the property line.

d. Easements and Property Lines. No structure or portion thereof, including overhangs and foundations, shall obstruct an easement or cross a property line.

e. Mechanical equipment shall subject to additional screening and setback requirements, as specified in Section 14.16.320.

3. Alley Setback. An accessory structure shall be located a minimum of five feet (5') from an alley.

4. Coverage. In addition to counting toward the total lot coverage limit that applies to all structures on a parcel, residential accessory structures shall not exceed a maximum of thirty percent (30%) of the required side or rear yard areas. Required front yard areas shall maintain at least forty-percent (40%) pervious landscape area.

5. Height. The height of an accessory structure shall not exceed a height of fifteen feet (15') except as permitted through design review.

F. Nonresidential Accessory Structures. The following standards shall apply to accessory structures where permitted in a non-residential zoning district.

1. In a nonresidential district, above ground accessory structures are permitted when such structures do not alter the character of the premises, and when constructed in conformity with all applicable requirements of this title; including floor area ratio requirements of this Chapter 14.16, Chapter 14.18 (Parking Standards) and Chapter 14.25 (Design Review).

2. Shipping and Storage Containers. Shipping and storage containers (e.g., "cargo" containers), or similar all-weather storage containers, may be allowed within an outdoor storage yard that has been approved consistent with the provisions of the underlying commercial and industrial district land use tables, and Section 14.17.120 (Outdoor storage). In all other instances, a storage container shall only be considered as a permanent structure that shall be subject to all of the underlying zoning district development standards, design criteria and provisions of this title (including floor area ratio requirements, parking standards, and Chapter 14.25 (Design Review)). See Section 14.17.130 (Temporary uses) for regulation of a storage container proposed for a temporary use.

(Ord. 1802 § 4, 2003: Ord. 1731 § 2, 1998; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1964 , § 2(Exh. B) § 11, 11-19-2018; Ord. No. 2002 , div. 9, 12-6-2021)

14.16.025 Refuse enclosure requirement.

Suitable area shall be provided on-site for collection of trash and recyclable materials for all multi-family, mixed-use and non-residential development projects. Refuse storage areas shall be adequately screened from view. The refuse area enclosure shall be designed to meet the minimum recommended dimensional standards of the local refuse collection agency, as well as any requirements of other agencies responsible for review and permitting of the facility; such as building, fire, public works or county health. See Section 14.16.020 for Accessory Structure standards and Chapter 14.25 for design review requirements.

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.030 Affordable housing requirement.

A. Purpose and Intent. The purpose of this section is to enhance the public welfare and ensure that further residential and nonresidential development projects within the city contribute to the attainment of affordable housing goals and requirements by promoting and increasing, through actual construction and/or alternative equivalent actions as provided for in this section, the development of rental and ownership housing units for very low, low and moderate income households.

B. General Requirements—Residential Development Projects. Any new residential development project with dwelling units intended or designed for permanent occupancy shall be developed to provide affordable housing units to very low, low and moderate income households in perpetuity unless, in its sole discretion and upon a finding of need pursuant to the Guidelines for the Administration of the Affordable Housing Trust Fund, as adopted and amended from time to time by the city council, the city council reduces the time frame to not less than forty (40) years.

1. Exemptions. This provision shall be imposed on all residential development projects except that the following shall be exempt from the provisions of this section:

    a. Projects that are the subject of development agreements in effect with the city and approved prior to the effective date of the city council ordinance;

    b. Projects where a building permit application has been accepted as complete by the city prior to the effective date of this section; however, any extension or modification of such approval or permit after such date shall not be exempt;

    c. Any building that is damaged or destroyed by fire or other natural catastrophe if the rebuilt square footage of the residential portion of the building does not increase upon reconstruction;

    d. Any residential development project of one (1) single family structure; and

    e. Second units approved by the city of San Rafael pursuant to Section 14.16.285 of the San Rafael Municipal Code.

2. Modification of Certain Approved Projects. Notwithstanding anything to the contrary in this section, for any project that, as of the effective date of this section, has received final city approval but has not yet commenced construction, the project applicant may apply to the city for a modification of the affordable housing requirements of the approved project where the modified affordable housing components of the project would be consistent with the requirements of this section and with the Guidelines for the Administration of the Affordable Housing Trust Fund, as adopted and amended from time to time by city council resolution. The request for modification shall be approved the decision-making body that approved the project.

3. Affordable Housing Units—Percentage Required. Residential development projects shall provide affordable housing units as described in the policies and procedures specified in the San Rafael City Council's Guidelines for the Administration of the Affordable Housing Trust Fund, as adopted, and amended from time to time by city council resolution, and any new residential development project shall comply with such policy.

C. Density Bonus and Incentives. Upon a separate application by an applicant for a residential development project of five (5) or more units that includes an eligible affordable housing project, including such residential development projects that include housing for transitional foster youth, qualified student housing, land donation, construction of a child care facility, or a qualified senior citizen housing development, shall be eligible for a density bonus, as well as an additional concession or incentive or waiver/reductions of development standards, consistent with the requirements of California Government Code Section 65915 and as set forth by resolution adopted by the city council from time to time.

D. General Requirements—Nonresidential Development Projects.

1. Application. An affordable housing requirement is hereby imposed on all developers of nonresidential development projects, including all construction of additional square footage to existing nonresidential developments and conversion of residential square footage to nonresidential use, subject to the following exceptions:

    a. Any project involving new construction under five thousand (5,000) square feet;

b. Residential components of a mixed-use project, which shall be subject to the requirements of subsection B of this section;

c. A mixed-use project where the number of affordable units equals or exceeds the housing required by subsection (I)(2) of this section for the gross square footage of nonresidential uses;

d. Projects where a building permit application has been accepted as complete by the city prior to January 5, 2005; however, any extension or modification of such approval or permit after such date shall not be exempt;

e. Projects that are the subject of development agreements in effect prior to January 5, 2005 where such agreements specifically preclude the city from requiring compliance with this type of affordable housing program;

f. Any nonresidential building that is damaged or destroyed by fire or other natural catastrophe if the rebuilt square footage of the nonresidential portion of the building does not increase upon reconstruction;

g. Project for which no nexus can be established between the proposed nonresidential development and an increase in the demand for affordable housing.

2. Number of Affordable Units Required. Proposed nonresidential development projects shall provide twenty percent (20%) of the total number of residential units needed to provide housing for project employees in very low-, low- and moderate-income households, as set forth in Table 14.16.030-3 of this section. Any decimal fraction greater than 0.50 shall be interpreted as requiring one additional dwelling unit. For uses not listed in Table 14.16.030-3 of this section, the community development director shall determine the number of affordable units required based on comparable employment densities to uses listed. In making such a determination, the decision of the community development director shall be based on data concerning anticipated employee density for the proposed project submitted by the applicant, employment surveys or other research on similar uses submitted by the applicant or independent research, and/or such other data the director determines relevant.

Table 14.16.030-3
Number of New Very low, Low and Moderate
Income Units Required for
New Nonresidential Development

Development Type	Number of New Very Low-, Low- and Moderate-Income Units (per 1,000 square feet of gross floor area[1)]
Office[2] or Research and Development uses	0.03
Retail, Restaurant or Personal Service uses	0.0225
Manufacturing or Light Industrial uses	0.01625
Warehouse uses	0.00875
Hotel or motel uses[3]	0.0075

;note; 1 ;hg;Floor area excludes all areas permanently used for vehicle parking.

;note;2 Includes professional, business and medical offices.

;note;3 Accessory uses to a hotel or motel, such as restaurant, retail and meeting facilities shall be subject to requirements for a retail use.

3. Provision of Units or In-lieu Fee. Required affordable housing units shall be provided on the same site as the proposed nonresidential development, at an off-site location within the city, through dedication of suitable real property for the required housing to the city, or through payment of an in-lieu fee, at the discretion of the planning commission or the city council. The planning commission or city council may accept off-site units or an in-lieu fee if it is determined that inclusion of the required housing units within the proposed nonresidential development is not reasonable or appropriate, taking into consideration factors including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments; or where the nature of the surrounding land uses is incompatible with residential uses in terms of noise or other nuisances, health or safety hazards or concerns. Where the application of the affordable housing requirement in Section 14.16.030.B results in less than one (1) unit or one (1) or more affordable housing unit and a fractional unit, the applicant may choose to pay an in-lieu fee for the fractional unit without the required findings noted above. Affordable housing units provided as part of the proposed nonresidential development or at an off-site location shall meet the requirements of Section 14.16.030.B and I and shall be completed prior to or concurrent with the completion of construction of the proposed nonresidential development, as the conditions of project approval shall specify.

4. Calculation and Payment of In-lieu Fee. The amounts and calculation of the housing in-lieu fee shall be based on the following:

   In-lieu fees shall be calculated as a percentage of the projected construction costs of the units. Construction costs of the units shall mean the estimated cost per square foot of construction, site development and land costs and permits and fees, as established by standard construction cost indices and/or surveys of local development projects such fees shall be established by resolution of the city council, as amended from time to time. Unless otherwise preempted by law, or otherwise approved by the planning commission or city council, the in-lieu fee shall be paid prior to the issuance of a building permit for the proposed project.

E. Housing In-Lieu Fee Fund. The housing in-lieu fees shall be placed in a segregated citywide housing in-lieu fee account. The funds in the housing in-lieu fee account, along with any interest earnings accumulated thereon, shall be used solely to increase and expand the supply of housing affordable to very low-, low- and moderate-income households, including, but not limited to, the following:

   1. Design and construction of housing affordable to households of very low, low- and moderate-income households, including costs associated with planning, administration and design;

   2. Acquisition of property and property rights, including acquisition of existing housing units and the provision of long-term affordability covenants on those units;

   3. Other actions that would increase the supply of housing affordable to very low, low- and moderate-income households;

   4. Costs of program development and ongoing administration of the housing fund program;

   5. Expenditures from the housing in-lieu fee fund shall be authorized solely by the city council and controlled and paid in accordance with general city budgetary policies.

F. Enforcement. The city attorney is authorized to abate violations and to enforce the provisions of this section and all implementing regulatory agreements and resale controls placed on affordable housing units, by civil action, injunctive relief, and/or other proceeding or method permitted by law. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the city from other remedy or relief to which it otherwise would be entitled under law or equity.

(Ord. 1838 § 31, 2005; Ord. 1831 § 1 (part), 2004: Ord. 1749, 2000: Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 41, 42, 6-21-2010; Ord. No. 1990 , div. 1.3, 3-1-2021)

14.16.040 Buildings over three stories.

Existing buildings with more than three (3) stories in height located outside the downtown mixed use (DMU) district, which were constructed or approved as of January 1, 1987 shall be considered conforming. These buildings include, but are not limited to, the following:

Table 14.16.040
BUILDINGS OVER THREE (3) STORIES

Address	Building
4000 Civic Center Dr.	Marin Executive Center
4040 Civic Center Dr.	Northgate East
100—500 Deer Valley	Smith Ranch Hills Retirement Home
535—565 Jacoby	Marin Resource Recovery Center
100 McInnis Parkway	Embassy Suites Hotel
99 Monticello Road	Kaiser Medical Center
899 Northgate	Quail Hill Office Building
1000 Northgate	Macy's
1010 Northgate	Four Points Sheraton Hotel
1050 Northgate	Holiday Office Building
9000 Northgate	Sears
1 Thorndale	Villa Marin Retirement Residences

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 43, 6-21-2010; Ord. No. 1996 , div. 2(Exh. A, 6.1), 8-16-2021)

14.16.045 Cannabis uses.

Specific medical cannabis uses are allowed by the Zoning Ordinance, as specified in the land use tables and as defined by the definition chapter, including and limited to cannabis testing/lab (both medicinal and recreational adult use), cannabis infused products (medicinal only), cannabis delivery (medicinal only) and cannabis distribution (medicinal only). All other medicinal or recreational medical cannabis uses, such as dispensaries, cultivation, and processing are prohibited.

The land use regulations contained pertaining to cannabis in this title do not apply to personal cultivation or use of cannabis. Personal cultivation and use of cannabis shall be subject to state law and any limitation imposed by state law.

(Ord. No. 1955 , (Exh. A, § 9), 3-19-2018; Ord. No. 1964 , § 2(Exh. B) § 12, 11-19-2018)

14.16.050 Conservation areas—Development potential.

Open space/conservation areas identified on the general plan land use plan map shall be preserved through the development review process and have no development potential. Mapped boundaries of conservation areas are schematic and may be adjusted to a limited extent during development review.

(Ord. 1625 § 1 (part), 1992).

14.16.060 Conservation of dwelling units.

A. Legal dwelling units, existing or approved as of January 1, 1991, shall be considered conforming uses, except for such units in the marine, marine commercial, light industrial/office districts, and industrial districts, and for single-family units in downtown mixed-use districts. Notwithstanding any land use regulations or property development standards to the contrary contained in this title, such dwelling units may be replaced or rebuilt in their existing location, provided that the number of units and building size shall be no greater than that which existed on January 1, 1991, and the design is similar. An administrative design permit (Section 14.25.040(C)) is required for any design changes. Such design changes should improve the architectural design of the structure or site design of the development.

B. Nonconforming structures are subject to Section 14.16.270(C), Regulations Pertaining to a Nonconforming Structure.

C. As commercial space, live/work quarters are exempt from this section.

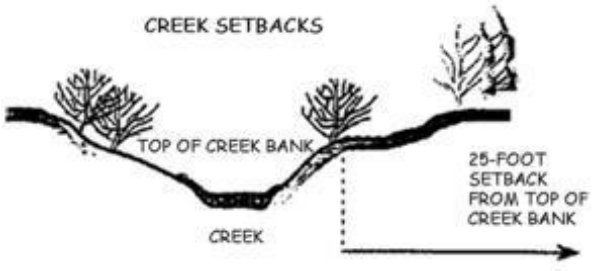
(Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

14.16.080 Creeks and other watercourses.

Improvements on a lot which is adjacent to, or contains, a creek, drainageway, or the San Rafael Canal shall be subject to the following provisions:

A. Setback, Creek. Creek setbacks shall be determined based on the setback criteria in subsection C below. These setbacks should include a twenty-five foot (25') or greater setback between any structure and the high top of the creek bank. On lots two (2) or more acres in size, a twenty-five foot (25') to one hundred foot (100') setback between any structure and the high top of the creek bank shall be provided.

Illustration 14.16.080



B. Setback, Drainageway. Adequate setback from a drainageway shall be determined at the time of project review based on the setback criteria in subsection C below.

C. Setback Criteria. Adequate setback between creeks and/or drainageways and a structure shall be determined based on the following criteria:

1. The setback provides for adequate maintenance, emergency vehicle access, adequate debris flow avalanche corridors, flood control and protection from damage due to stream bank undercutting;

2. The setback adequately protects and preserves native riparian and wildlife habitat;

3. The setback protects major view corridors and provides for recreation opportunities where appropriate;

4. The setback permits provision of adequate and attractive natural landscaping.

D. Setback, San Rafael Canal. No new building or substantial reconstruction of an existing building should be located within twenty-five feet (25') of the top of the bank or bulkhead along both sides of the San Rafael Canal between Highway 101 and the mouth of the canal. Upon adoption of a design plan for the San Rafael Canal, the design plan provisions shall control.

E. Development Guidelines. Pedestrian and bicycle access is encouraged along creek and drainageway corridors where feasible. However, they should be designed and located so as not to adversely affect important habitat areas. Creeks and drainageways should also be enhanced where feasible to serve as wildlife habitat as well as drainage facilities.

F. Fill. Any proposed fill in a creek, drainageway or in the San Rafael Canal shall be subject to the requirements of Section 14.13.040(G), Fill. A use permit for fill shall be required consistent with Sections 14.13.050 through 14.13.070.

(Ord. 1625 § 1 (part), 1992).

14.16.100 Development agreements.

Development agreements shall be governed by Resolution No. 6089, adopted April 20, 1981 by the city council, or as it may be subsequently amended, establishing procedures and requirements for the consideration of development agreements as provided for by state law.

(Ord. 1625 § 1 (part), 1992).

14.16.110 Drive-through facilities.

Drive-through facilities shall comply with the following standards:

A. Traffic and Circulation.

1. The drive-through stacking lanes shall be separated physically (i.e., by raised curb or landscape planter) from the parking lot, and shall comply with the following capacity standards:

Use	Length of Stacking Lane(s)*
Financial Institutions	3—6 cars, depending upon volume
Fast Food Restaurants	8—12 cars, depending upon volume
Kiosks	2 cars
Other	Determined on an individual basis

* Provide 20 feet per car length.

2. The drive-through stacking lane shall be situated so that any overflow parking from the stacking lane shall not spill out onto public streets or major circulation aisles of any parking lot. If the overflow is directed to the street, additional overflow capacity shall be eighty percent (80%) of required stacking.

3. Pedestrian crossings of the drive-through lane are discouraged.

4. Entrances and exits to drive-through facilities near high volume intersections shall be located so as to maximize the distances to the intersection.

5. Confusing on-site circulation shall be avoided. Entrances to and exits from drive-through facilities should be at least twenty feet (20') from the property line.

6. Parking spaces for drive-through special orders may be required.

B. Noise. Speakers at drive-through facilities shall not be audible from adjacent residential uses or disturbing to adjacent nonresidential uses. Sound attenuation walls or other mitigation measures shall be required as necessary.

C. Hours of Operation. Limited hours of operation shall be required where a drive-through facility could affect nearby residential uses.

D. Emission Control. Drive-through stacking lanes shall not be located adjacent to patios and other pedestrian use areas, other than walkways, and should be discouraged where adjacent nonresidential buildings are within thirty feet (30') of the proposed lane. Drive-through stacking lanes shall not be located within fifty feet (50') of any residential uses.

E. Design Review. All drive-through facilities are a minor physical improvement subject to the provisions of Chapter 14.25, Environmental and Design Review Permits. Generally, the drive-through facility shall be architecturally compatible with nearby structures, provide landscaping to buffer adjacent uses and provide adequate lighting which is shielded from adjacent properties. Trash receptacles adequate to control litter will also be required.

(Ord. 1625 § 1 (part), 1992).

14.16.115 Emergency shelters—Permanent.

A. Purpose. This section establishes standards for location and operation of a permanent emergency shelter for homeless populations in compliance with California Government Code Section 65583, including allowing shelters as a permitted use in some commercial and industrial district locations. This section is not applicable to temporary emergency shelters established by the city in response to an emergency event.

B. Applicability. Emergency shelters to provide temporary housing and assistance for families and individuals who are homeless shall be permitted as of right in the GC and LI/O districts generally bounded by Bellam Boulevard and I-580, consisting of those shaded parcels within this area, as shown on Map 14.16.115, and at other locations where conditionally permitted by the land use tables of this title. However, the total number of beds provided within the area shown on Map 14.16.115 shall only be permitted by right as necessary to meet the local housing need established by the General Plan 2020 Housing Element (reflecting regional housing needs assessment (RHNA) projections prepared by the Association of Bay Area Governments and based on the state housing and community development department needs assessment at the time of adoption of the most current housing element). A conditional use permit shall be required to provide additional facilities within this area in excess of the RHNA needs assessment identified in the General Plan 2020 Housing Element. All facilities shall be operated in compliance with the provisions herein.

Map 14.16.115

C. Findings Required. Where a conditional use permit must be obtained to establish an emergency shelter pursuant to the land use tables of this title, findings shall be made with regard to the performance standards required herein in addition to the use permit findings required pursuant to Chapter 14.22.

D. Performance Standards. An emergency shelter shall meet the following development and performance standards:

1. On-site management and on-site security shall be provided during hours when the emergency shelter is in operation.

2. Adequate external lighting shall be provided for security purposes (i.e., one (1) foot-candle at all doors and entryways and one-half (½) foot-candle at walkways and parking lots). The lighting shall be stationary, directed away from adjacent properties and public right-of-ways, and of intensity compatible with the surrounding area.

3. The development may provide one (1) or more of the following specific common facilities for the exclusive use of the residents and staff:

   a. Central cooking and dining room(s).

   b. Recreation room.

   c. Counseling center.

d. Child care facilities.

e. Other support services.

4. Parking and outdoor facilities shall be designed to provide security for residents, visitors, employees and the surrounding area, and consistent with the requirements of Section 14.18.040 (Parking Requirements).

5. A refuse storage area shall be provided that is completely enclosed with masonry walls not less than five feet (5') high with a solid-gated opening and that is large enough to accommodate a standard-sized trash bin adequate for use on the parcel, or other enclosures as approved by the review authority. The refuse enclosure shall be accessible to refuse collection vehicles.

6. The agency or organization operating the shelter shall comply with the following requirements:

   a. Shelter shall be available to residents for no more than six (6) months. No individual or household may be denied emergency shelter because of an inability to pay.

   b. Staff and services shall be provided to assist residents to obtain permanent shelter and income.

   c. The provider shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to ensure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.

7. No emergency shelter shall be located within three hundred feet (300') of another emergency homeless shelter site; unless permitted through review and approval of a conditional use permit where it is determined the additional shelter location is appropriate and necessary to serve the intended population and would not result in an over-concentration in the community.

8. The facility shall be in, and shall maintain at all times, good standing with city and/or state licenses, if required by these agencies for the owner(s), operator(s), and/or staff on the proposed facility.

9. The maximum number of beds or clients permitted to be served (eating, showering and/or spending the night) nightly shall comply with the occupancy limit established by the building code. Additionally, the number of beds or clients permitted to be served may be further limited as required by conditional use permit.

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.120 Exclusions to the maximum height requirement.

Flagpoles not exceeding a height of twenty-four feet (24’), aboveground utility distribution facilities including communications towers and public water tanks, windmills, monuments, mechanical appurtenances, satellite dishes in multifamily and nonresidential districts and architectural features such as screening for mechanical equipment, chimneys, steeples and cupolas are not included in height calculations. However, structures and architectural features which extend above the established building height limit may require an environmental and design review permit, pursuant to Chapter 14.25, Environmental and design review permits.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 44, 6-21-2010; Ord. No. 1964 , § 2(Exh. B) § 13, 11-19-2018)

14.16.130 Exclusions to the required minimum yards.

A. Architectural features projecting from a structure such as fireplaces, cornices, eaves and canopies may extend no more than two feet (2') into any required yard. Open and uncovered decks, landings and/or stairways may project up to three feet (3') into any required side or rear yard and up to six feet (6') into any required front yard.

B. These exclusions to required minimum yards may be combined with a setback exception granted pursuant to Section 14.24.020.B, provided that a minimum yard area is maintained in keeping with the character of the residential neighborhood.

C. Retaining walls four feet (4') or less in height measured from the top of the footing to the top of the wall and subterranean structures which are located entirely below both existing and finished grade are allowed anywhere within the required yards; except as otherwise regulated under Section 14.16.020 (Accessory Structures).

D. Elevated parking decks that are proposed to provided necessary driveway access, required guest parking, and/or access to necessary walkways serving a single-family residence on a steeply downsloping hillside lot (i.e., twenty-five percent (25%) or greater downslope from the street) may be permitted within the required front yard setback. See 14.25 for design review requirements.

(Ord. 1838 § 34, 2005: Ord. 1663 § 1 (part), 1994: Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 45, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.132 Exclusions to maximum lot coverage.

The following improvements are not counted as part of lot coverage: ground level landscaped areas, at grade walkways, at grade including steps, and paved areas, uncovered patios and decks thirty inches (30") or less in height, uncovered recreational and uncovered parking and driveway areas, paved parking areas covered by solar panel installations pursuant to Section 14.16.307, play and storage structures not requiring a building permit that are one hundred twenty (120) square feet or less in size and eight feet (8') or less in height, and structures that are located entirely below both existing and finished grade.

(Ord. No. 1882, Exh. A, § 46, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.140 Fences and walls.

This section establishes regulations for the height, location and materials of fences, retaining walls and privacy walls. The regulations are intended to prevent fences or walls which are a detriment to the appearance and character of the community and to protect the public health, safety and welfare by assuring adequate sight distance is provided and maintained at street intersections and driveways. The provisions of this section do not apply to properties within the downtown mixed use district. For fence and wall regulations within the downtown mixed use district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

A. Residential Districts. The following height limitations shall apply to the height of fences and walls in residential districts:

1. Permitted.

a. Front and Street Side Yard Areas. The following may be located within the required front and street side yard:

i. Fences and retaining walls not exceeding four feet (4′) in height, may be located within the front or street side yard setback, provided that the fence or wall shall not conflict with the sight distance requirements of Section 14.16.295;

ii. Minor decorative entryway treatments no taller than eight and one-half feet (8.5′) in height, such as a trellis arch or a lattice arch, are permitted within the front or street side yard, provided that there is no vehicular view obstruction (i.e., adequate sight distance shall be provided and maintained, pursuant to the provisions of Section 14.16.295).

b. Rear Yard and Interior Side Yard. The following may be located within the required rear yard and interior side yard:

i. Fences not exceeding seven feet (7′) in height may be located within the required rear yard or interior side yard;

ii. Retaining walls not exceeding a height of four feet (4′) in height may be located within the required rear yard and interior side yard.

2. With Required Planning Permits. The following may be permitted in residential districts with prior approval of design review (pursuant to Section 14.25.040.C.) and/or exception (pursuant to Chapter 14.24) as noted:

a. Retaining walls over four feet (4′) in height on hillside parcels (i.e., property that contains a slope of twenty-five percent (25%) or greater or designated -H Overlay) may be permitted with environmental and design review ~~subject to design review board recommendation,~~ if the community development director finds it necessary to minimize grading and/or tree removal impacts. Retaining walls located outside of required setbacks shall otherwise be reviewed subject to the regulations that apply to an accessory structure, in Section 14.16.020.

b. Fences exceeding seven feet (7′) in height up to nine feet (9′) in height may be located in the required interior side or rear yard where topography or difference in grade between adjoining sites warrants such increase, subject to administrative design review and exception.

c. Fences in the front yard or street side yard may be increased by a maximum of two feet (2′) to prevent access to natural or physical hazardous conditions either on the lot or on an adjacent lot, subject to administrative design review and exception.

d. Exception. An exception to the residential fence and walls height standards may be allowed as noted above, subject to the provisions of Chapter 14.24, Exceptions; Exceptions for height should include a landscape setback buffer between the fence or wall and the public right of way, in order to mitigate the impact of a taller fence or wall along the streetscape. A minimum setback buffer of six inches (6″) should be provided for each one-foot (1′) of increased height.

e. Note: A building permit may be required for fences over seven feet (7′) in height and retaining walls over four feet (4′) or walls that support the adjacent hillside or property improvements, as determined by the building code.

B. Non-Residential Districts. An administrative environmental and design review permit shall be required for all non-residential fences over seven feet (7′) in height to ensure the fence conforms to the design and development standards of the underlying district, and is compatible with the immediate surrounding properties in the neighborhood. Where a property is located in a non-residential zoning district and is developed with, abutting, or surrounded by, a residential use, fence heights shall be the

same as required for residential districts unless an alternate fence height can be justified through the administrative design review process.

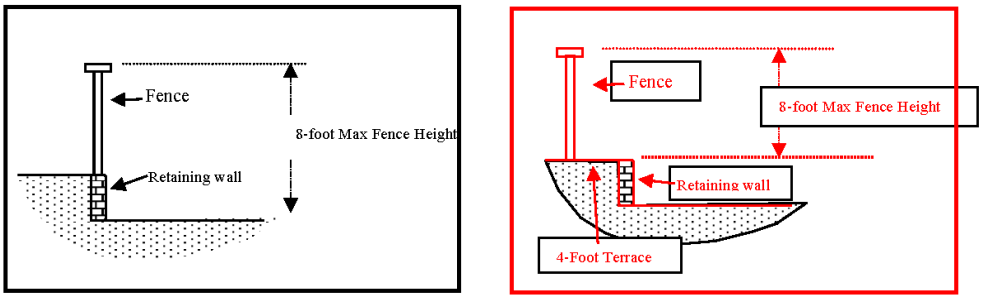
C. All Districts. The following standards shall apply to all districts:

1. Measurement of Height. The height of a fence and/or or retaining wall and associated structural and/or decorative elements shall be the combined height measured vertically from finished ground level, as determined by the building or planning official, to the top of the structure at any given point (see illustration "Maximum Allowed Fence Height Measurement"). Except as follows:

   a. Minor decorative entryway treatments are permitted in the setback as noted above (Section 14.16.140 A.1.ii).

   b. Terraced fences and/or retaining walls that provide a landscaped horizontal separation of at least four feet (4') may be measured separately at the base of each terrace.

Maximum Allowed Fence Height Measurement



Non-Terraced **Terraced**

2. Recreation Fences.

   a. Fences for swimming pools are subject to the requirements of the building code.

   b. Fences for tennis courts shall not exceed maximum height limits established for accessory structures and shall in no case exceed a height of twelve feet (12').

3. Sight Distance. Fencing, vegetation and retaining walls located near a driveway or street intersection shall not conflict with the vision triangle requirements established to assure adequate sight distance is maintained for vehicles and pedestrians, pursuant to the provisions of Section 14.16.295.

4. Prohibited Materials. In all districts, concertina wire, razor wire, broken glass on top of a fence, and electrified fences are prohibited. Barbed wire shall not be permitted where abutting residential uses. In residential districts, wire mesh, chain link and similar fences are prohibited within any yard which fronts a public street, right-of-way or waterway, except as may be required as an environmental mitigation measure.

5. Temporary Fences. Temporary security fences may be erected around construction sites during the time a valid building permit is in effect for construction on the premises. Temporary security fences need not comply with the above regulations and must be immediately removed upon completion of the construction authorized by the building permit.

D. Replacement of Fences and Walls. An existing, nonconforming fence or wall in any district is subject to the following regulations:

1. Ordinary maintenance and repairs may be made to a nonconforming fence as required to keep the fence or wall in sound condition.

2. Alterations and additions may be made to a nonconforming fence or wall, provided that such addition or alteration is consistent with these fence and wall provisions.

3. No nonconforming fence or landscape retaining wall shall be moved or replaced unless it conforms to these fence and wall provisions, except for certain residential fences as provided below.

4. An existing nonconforming residential fence or wall that is located in a front yard or street side yard may be replaced in the same location provided that:

   a. The fence was previously permitted or authorized by the city, or existed on or before January 1, 1992. The property owner shall provide sufficient documentation including photographs, written testimony, etc. to verify the pre-existing condition.

   b. The replacement fence or wall may be rebuilt to its previously existing and documented height, subject to request and issuance of a zoning verification review letter by the planning division. However, in no case shall any replacement fence exceed a height of six feet (6') within the required front or street side yard setback and shall be no taller than three feet (3') within a required vision triangle (Section 14.16.140.B);

   c. The replacement fence or wall is consistent with the prevailing character of both sides of the street for the length of the block; and

   d. All necessary permits shall be secured from the city (e.g., approval of a license agreement or encroachment permit if fence is located within the public right-of-way).

(Ord. 1838 § 35, 2005; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1964 , § 2(Exh. B) § 14, 11-19-2018; Ord. No. 1996 , div. 2(Exh. A, 6.2), 8-16-2021))

14.16.150 Floor area ratios and densities applicable to nonresidential and mixed-use development.

A. 1. The intensity and density of development in nonresidential and mixed-use districts is identified by floor area ratio (FAR) and by the number of units allowed per one thousand (1,000) square feet of lot area for the location and zoning district in which a site is located. The FAR is the total building square footage (gross floor area) divided by the lot area excluding public streets. Total building square footage excludes parking areas or garages (covered and uncovered), residential components of a mixed use project, hotels, and non-leasable covered atriums. Floor area for permanent child care facilities in nonresidential structures may be excluded in the FAR, subject to the provisions of Chapter 14.22, Use Permits.

   2. FAR limits in non-residential zoning districts are provided in the general plan land use element, except that for the downtown mixed use (DMU) district, intensity and development limitations are governed by the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. The maximum allowable FAR is not guaranteed and shall be determined by the following factors: site constraints, infrastructure capacity, hazardous conditions and design policies.

B. Mixed-Use Development.

1. Commercial or Office with Residential. FAR limits apply only to the non-residential component of a development. The number of residential units allowed on a lot is based on the minimum lot area required per dwelling unit standard for the zoning district. For example, a ten thousand (10,000) square foot lot in the ⅔ MUW District (Max. FAR is 0.7 and density is one thousand (1,000) square feet of lot area per dwelling unit) could develop with up to the following mixed-use amount, subject to meeting other zoning standards related to height, parking and design:

Size of Lot	FAR/ Density	Development Potential
10,000 sq. ft.	FAR 0.7	7,000 sq. ft. commercial (10,000 sq. ft. of lot area × 0.7 FAR = 7,000 sq. ft.) and
	Lot area/dwelling unit: 1,000 sq. ft.	10 units (10,000 sq. ft. of lot area/1,000 sq. ft. = 10 units)

2. Industrial/Office. In East San Rafael and Francisco Blvd. West, to equalize traffic generation, a sliding scale of 0.26—0.38 FAR is applied to construction of new industrial/office structures. For example, the industrial 0.38 FAR allows up to twenty-five percent (25%) office use; a higher percentage of office use requires a lower FAR, (see FAR maps below for more information).

C. Public and Quasi-Public Use FAR. Public and quasi-public structures have a 1.0 FAR. Except for public and quasi-public structures in residential districts where the 1.0 FAR may not be exceeded, public and quasi-public structures intended for a specific purpose which requires a FAR greater than 1.0 may be built to a higher FAR if the higher FAR is necessary for health or safety purposes, subject to the provisions of Chapter 14.22, Use Permits.

D. Transportation Use FAR. Transportation structures as part of a public or quasi-public use have a FAR of 1.0. Transportation structures as part of a commercial use have a FAR of 0.32.

E. Water District. The FAR for the water district, consistent with the parks/open space zoning district, is 0.1. Docks, piers and launching ramps are not included in FAR in the water district.

F. Commercial and Industrial Redevelopment. Any commercial or industrial building larger than the FAR limit may be redeveloped consistent with Section 14.16.270(C)(6), Regulations pertaining to a nonconforming structure.

G. Floor Area Ratio Limit Standards.

1. For properties within the Downtown Mixed Use (DMU) district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

   a. FARs may be transferred from one portion to another of a parcel split by FAR designations if the transfer results in a scale compatible with surrounding development, as permitted in Section 14.16.340, Transfer of density on-site.

   b. A one-time increase in FAR up to ten percent (10%) of the building or seven hundred fifty (750) square feet, whichever is larger, shall be allowed for expansion of commercial and office structures if consistent with the provisions of this title, consistent with the provisions of Chapter 14.22, Use Permits. A traffic study may be required for a FAR increase for buildings on Fifth or Mission Avenues.

2. A higher FAR may be permitted at the intersection of Andersen Drive, Highway 101 and Francisco Blvd. West, if the proposed development would substantially upgrade the area and include bulk and region-serving specialty retail and/or hotel uses, subject to a use permit (Chapter 14.22).

3. Mini-storage projects may be permitted up to 1.0 FAR by use permit if the planning commission finds:

a. The facility is needed in the community;

b. The design of the project is compatible with surrounding uses;

c. The project is designed so that it cannot be converted to other, more intensive uses; and

d. The location is appropriate for this type of use.

(Ord. 1831 § 1 (part), 2004: Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 47, 48, 6-21-2010; Ord. No. 1996 , div. 2(Exh. A, 6.3, 6.4), 8-16-2021)

14.16.160 Fuel and service stations.

The regulations are intended to assure the compatibility of such uses with existing and planned uses in the surrounding area and to protect the public health, safety and welfare by assuring adequate numbers of fuel and service stations which afford equal access to the public, including the elderly, the handicapped and visitors in need of minor automobile repair through the provision of attended fuel pumps and mechanic's bays.

A. A use permit shall be required for any fuel service station permitted under the regulations of the zoning district in which it is located, including those which are to be:

1. Newly constructed;

2. Reopened after operations, including any required cleanup operations, have ceased for a period greater than nine (9) months;

3. Remodeled to include any of the following: nonautomotive retail sales other than those of an incidental nature not occupying an area open to the public greater than one hundred (100) square feet; a car wash; or, additional service islands or mechanic's bays; or

4. Converted from one (1) type of station to another so as to delete either or both of the following: pump(s) labeled "full-service," "mini-service" or otherwise marked so as to indicate the availability of attendant assistance in pumping fuel; or mechanic's bay(s) in which emergency repairs by a mechanic are available.

B. Conditions of Approval. In approving a use permit for a fuel service station, the planning commission may impose reasonable conditions. Such conditions may include the required posting of signs informing motorists of the location of the nearest facility offering the services listed.

C. Findings. The planning commission may issue a use permit for a fuel service station if the following finding can be made: that the proposed fuel service station will not significantly adversely affect the public health, safety or welfare in terms of discrimination against individuals needing refueling assistance and the availability of minor emergency automobile repair services and public restrooms.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 49, 6-21-2010)

14.16.170 Geotechnical review.

Development applications require geotechnical reports consistent with the geotechnical matrix in the general plan appendices to assess such hazards as potential seismic hazards, liquefaction, landsliding, mudsliding, erosion, sedimentation and settlement and hazardous soils conditions to determine the optimum location for structures, to advise of special structural requirements and to evaluate the feasibility and desirability of a proposed facility in a specific location.

(Ord. 1625 § 1 (part), 1992).

14.16.180 Hazardous soils conditions.

New development on lots filled prior to 1974 or on lots which were used for auto service uses, industrial uses or other land uses which may have involved hazardous materials shall be evaluated for the presence of toxic or hazardous materials prior to development approvals. The requirements for review are set forth in the geotechnical review matrix in the general plan.

(Ord. 1625 § 1 (part), 1992).

14.16.190 Height bonus.

A. Downtown Mixed Use District Height Bonuses. In the downtown mixed use district an applicant may request a height bonus as set forth below, instead of a request for a density bonus allowed by Section 14.16.030 and by city council resolution establishing density bonus regulations (resolution 14891). A height bonus requested under this section shall be granted by the planning commission through an environmental and design review in the following downtown zoning districts. No more than one height bonus may be granted for a project and these height bonuses shall not be in addition to waivers/concessions allowed by the city's density bonus regulations and policies. A height bonus specified by the Downtown San Rafael Precise Plan Form-Based Code shall be allowed for any of the following:

1. Affordable housing projects where all units are located on-site. The allowable height bonus shall be as follows:

   a. Housing projects that restrict ten (10) percent of units to low income households are allowed a 10-foot height bonus for all areas in the downtown precise plan;

   b. Housing projects that restrict more than ten (10) percent of units to low income households are allowed a 20-foot height bonus in those areas identified as "Tier 2" areas in Figure 4.8 of the downtown precise plan.

2. Public courtyards, plazas and/or passageways that exceed the minimum requirements in the downtown form-based code that ~~, with the recommendation of the design review board that the public improvements~~ are consistent with Downtown San Rafael Precise Plan Form-Based Code

3. Public parking, providing it is not facing Fourth Street and it is consistent with the Downtown San Rafael Precise Plan Form-Based Code.

4. Mid-block passageways between Fourth Street and parking lots on Third Street that are ~~, with the recommendation of the design review board that the design is~~ attractive and safe.

5. Public passageways in the West End area~~, with the recommendation of the design review board that the public passageway~~ that serves an important public purpose and is attractive and safe

B. Lincoln Avenue Height Bonus. A twelve-foot (12') height bonus may be granted for affordable housing on Lincoln Avenue outside of the Downtown Mixed Use zoning district, between Mission Avenue and Hammondale Ct., on lots greater than one hundred fifty (150') in width and twenty thousand (20,000) square feet in size, consistent with Section 14.16.030 (Affordable housing).

C. Marin Square Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing at the Marin Square and Gary Place properties, consistent with Section 14.16.030 (Affordable housing).

D. North San Rafael Town Center Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing in the North San Rafael Town Center, consistent with Section 14.16.030 (Affordable housing).

E. Hotel Height Bonus. A height bonus of twelve feet (12') may be granted for a hotel provided the planning commission finds that the hotel will be a significant community benefit ~~and the design is consistent with design review board recommendations.~~

F. Residential Development Height Bonus. A residential development project with one hundred (100) percent of the total units available to lower income households, and located within one-half (½) mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, shall be eligible for a height increase of up to thirty-three (33) feet. This bonus shall not be combined with any other height bonus listed above.

(Ord. 1831 § 1 (part), 2004: Ord. 1780 Exh. A, 2002; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1980 , § 2(Exh. A), 4-6-2020; Ord. No. 1990 , div. 4, 3-1-2021 Ord. No. 1996 , div. 2(Exh. A, 6.5), 8-16-2021)

14.16.200 Hillside residential development standards.

On new residential structures, accessory structures, additions over five hundred (500) square feet in size and any modification that increases the height of the roofline on such structures which are located on lots with an average slope greater than twenty-five percent (25%) or which are in the hillside resource residential or hillside residential general plan land use districts, the standards of Chapter 14.12, Hillside Development Overlay District, apply.

(Ord. 1625 § 1 (part), 1992).

14.16.210 Historic preservation.

Alteration of a structure on a landmark site or in a historic district may be subject to a certificate of appropriateness and review by the planning commission, consistent with the requirements of Chapter 2.18, Historic Preservation, of the municipal code.

(Ord. 1838 § 36, 2005: Ord. 1625 § 1 (part), 1992).

14.16.220 Home occupations.

A. Purpose. This section establishes standards for home occupation businesses. In general, a home occupation is an accessory business use in a residence, so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence other than for a nameplate as permitted elsewhere in this section. The standards for home occupations in this section are intended to ensure compatibility with the residential character of the neighborhood, plus assure that home occupations are clearly secondary or incidental in relation to the primary residential use.

B. Definition. A home occupation is defined as follows: A home occupation is an accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one (1) or more persons, all of whom reside within the dwelling unit. The use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof or adversely affect the neighboring residences. When a use is a home occupation, it means the owner, lessee or other persons who have a legal right to the use of

the dwelling unit also have the vested right to conduct the home occupation without securing special permission to do so.

C. Standards. Home occupations are permitted residential accessory uses in any zoning district which allows single-family, duplex or multiple-family residential uses provided that all of the following standards are met:

1. Such occupation(s) shall be conducted solely by resident occupants in their residence, except that a cottage food operation (as defined in the State of California, Health and Safety Code (HSC) 113758) shall be permitted to have no more than one (1) full-time equivalent employee, not including members of the household.

2. No more than twenty-five percent (25%) of the gross area of said residence shall be used for such purpose. An accessory structure shall not be used for home occupation purposes. Use of a recreational vehicle or garage for a home occupation is prohibited.

3. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.

4. There shall be no outside storage of any kind related to the home occupation(s).

5. The home occupation(s) shall be operated to allow no more than one (1) client at a time on-site. Appointments shall be scheduled at reasonable intervals to maintain a low-intensity use and avoid client waits. The home occupation(s) may increase vehicular traffic flow and parking by no more than one (1) additional vehicle at a time. One (1) vehicle, associated with the home occupation(s), may be kept on-site, within a designated parking area, and shall not exceed two and one-half (2½) gross tons in unladen vehicle weight provided that the business vehicle license number shall be indicated on the certificate of use and occupancy permit—home occupation or similar.

6. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

7. All home occupations shall be subject to all conditions which are applied in this Title 14 generally, such as off-street parking; and to all other permits required under the city code, such as building permits and business licenses.

D. Nameplate Allowed. Up to one (1) nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation (e.g., John Jones—Realtor). It shall not exceed one (1) square foot in area, shall be nonilluminated, and attached flat to the main structure or visible through a window. The limitation to one (1) nameplate applies to all lots, including corner lots.

E. Examples of Uses that Frequently Qualify as Home Occupations. The following are typical examples of uses which often can be conducted within the limits of the restrictions established in this chapter and thereby qualify as home occupations. Uses which qualify as "home occupations" are not limited to those named in this paragraph (nor does the listing of a use in this paragraph automatically qualify it as a home occupation): accountant, architect, artist, attorney-at-law, author, beautician/barber, computer repair, consultant, individual musical instrument instruction, individual swim lessons (no groups), tutoring, insurance, radio repair, realtor, seamstress/tailor, small appliance repair, television repair, and a cottage food operation, as defined in Section 113758 of the State of California Health and Safety Code, (e.g., producing non-potentially hazardous foods in the kitchen of the residence for retail sale at or below sales limits established by the State of California, in compliance with all required environmental health permits and clearances, and with no more than one (1) full-time equivalent employee not including members of the household.).

F. Uses that are Prohibited. The following uses by the nature of the business or operation have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations or cannot operate in compliance with applicable licensing requirements or the home occupation performance standards and thereby substantially impair the use and value of a residential area for residence purposes (e.g., the use would generate impacts on the surrounding neighborhood that are more frequent than that usually experienced in an average residential occupancy in the district under normal circumstances wherein no home occupation exists. This may include but not be limited to a home occupation that would generate traffic associated with the business outside of normal daytime business hours or on Sundays, or other impacts not typically associated with a home occupation use such as excess vehicle parking or storage of materials or equipment). Therefore the uses specified below, and any use determined by the community development director to be similar in its operations or potential impacts, shall not be permitted as home occupations:

a. Animal keeping for commercial purposes (such as commercial pet sitting, boarding or animal training);

b. Auto repair, minor or major;

c. Auto sales;

d. Carpentry;

e. Dance instruction;

f. Dental or medical offices;

g. Painting of vehicles, trailers or boats;

h. Photo-developing or photo studios;

i. Private schools with organized classes;

j. Upholstering;

k. Fortunetelling.

l. Any cannabis related business (personal use and cultivation are permitted subject to limitations of state law);

m. Firearms dealer;

n. Taxi service, dispatch, or vehicle tow service.

(Ord. 1748 § 2, 2000; Ord. 1713 § 3, 1997; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 50, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1955 , (Exh. A, § 10), 3-19-2018)

14.16.225 Kiosks—Temporary or permanent.

A. Applicability. Operation and establishment of a commercial kiosk at a fixed location on private property shall require submittal of an administrative use permit application, where such use may be conditionally permitted under the land use tables of this title. These provisions do not apply to a commercial peddler, vendor or itinerant merchant activity that is not proposing to operate from a fixed location on a commercial site; which are not permitted to operate on private property. See Chapter 10.48 for the regulations applying to a commercial peddler, vendor and itinerant merchant.

B. Standards.

1. A permanent retail kiosk structure shall be subject to compliance with all site and use, parking and design review requirements of this title.

2. Food and beverage kiosks shall include a Marin County Health Department letter of approval.

3. A movable food and beverage small trailer or cart may be permitted to operate on a commercially developed site, where a kiosk use may be conditionally permitted by the land use tables of the underlying district, subject to the recommendation of the department of public works and a determination that the activity would comply with the following standards:

    a. The use would primarily serve existing customers, employees and commuters already traveling to or in the area (e.g., pass-by and shared vehicular trips).

    b. The use shall not obstruct required walkways, driveways or create traffic congestion in the area.

    c. Adequate parking shall be available for the primary uses on the property with the addition of the proposed kiosk use (temporary and permanent). The use shall not impact parking demand for the primary use(s) of the site or obstruct access to required parking spaces, or have a negative impact on site circulation.

    d. A maximum of two (2) employees including the owner shall be permitted to operate the facility; except that an additional employee may be allowed, as needed, to provide traffic control.

    e. The food and beverage equipment shall be approved by the Marin County Health Department.

    f. The trailer or cart associated with the use shall be moved and stored in a permitted screened location on-site or at an approved off-site commissary location when the business is not in operation.

    g. The use may be permitted to operate between the hours of 6 a.m. to 9 p.m. weekdays and 7 a.m. to 9 p.m. weekends, and subject to further restrictions on the hours of operation as deemed necessary to mitigate potential traffic or circulation impacts in the area.

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.227 Light and glare.

Colors, materials and lighting shall be designed to avoid creating undue off-site light and glare impacts. New or amended building or site colors, materials and lighting shall comply with the following standards, subject to review and recommendation by the police department, public works department, and community development department:

A. Glossy finishes and reflective glass such as glazed or mirrored surfaces are discouraged, and prohibited where it would create an adverse impact on

pedestrian or automotive traffic or on adjacent structures; particularly within the downtown environs and in commercial, industrial and hillside areas.

B. Lighting fixtures shall be appropriately designed and/or shielded to conceal light sources from view off-site and avoid spillover onto adjacent properties.

C. The foot-candle intensity of lighting should be the minimum amount necessary to provide a sense of security at building entryways, walkways and parking lots. In general terms, acceptable lighting levels would provide one (1) foot-candle ground level overlap at doorways, one-half (½) foot-candle overlap at walkways and parking lots, and fall below one (1) foot-candle at the property line.

D. Lighting shall be reviewed for compatibility with on-site and off-sight light sources. This shall include review of lighting intensity, overlap and type of illumination (e.g., high-pressure sodium, LED, etc.). This

may include a review by the city to assure that lighting installed on private property would not cause conflicts with public street lighting.

E. Installation of new lighting fixtures or changes in lighting intensity on mixed use and non-residential properties shall be subject to environmental and design review permit review as required by Chapter 14.25 (Design Review).

F. Maximum wattage of lamps shall be specified on the plans submitted for electrical permits.

G. All new lighting shall be subject to a 90-day post installation inspection to allow for adjustment and assure compliance with this section.

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.230 Lot consolidation when development occurs.

Where a development project is constructed on more than one adjoining lot, the owner or owners of such lots must merge such lots into a single lot when the building is proposed to cross the property line of the adjoining lots. The lots shall be merged prior to issuance of a building permit.

(Ord. 1663 § 1 (part), 1994: Ord. 1625 § 1 (part), 1992).

14.16.240 Manufactured homes.

A. Purpose. In order to increase the supply of housing and variety of housing types available to the public, manufactured homes are permitted within all zoning districts which allow single-family dwellings, consistent with meeting certain standards.

B. Compatibility Standards. A manufactured home may be used for residential purposes in an R district if the planning director determines, prior to issuance of any building permit that the following standards are met:

1. The lot and structure meet all the property development standards and requirements of the district;

2. The home is to be used as the principal or accessory dwelling unit;

3. The home is attached to a permanent foundation system which conforms to state and local code requirements;

4. The home meets the standards set forth in the National Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.);

5. The roof and exterior siding and trim are of materials and treatment compatible with adjacent residential structures;

6. The roof overhang shall not be less than twelve inches (12"). This requirement may be modified where eaves of surrounding homes are less than twelve inches (12").

C. Other Requirements.

1. A manufactured home is also subject to any design requirements which would be required of a single-family home on the same lot.

2. A manufactured home in a nonresidential zoning district is subject to Section 14.17.130, Temporary uses.

(Ord. 1802 § 5, 2003: Ord. 1625 § 1 (part), 1992).

(Ord. No. 2002 , div. 10, 12-6-2021)

14.16.243 Mechanical equipment screening.

Equipment placed on the rooftop of a building or in an exterior yard area shall be adequately screened from public view. See Chapter 14.16 for exclusions to maximum height requirements and Chapter 14.25 for design review requirements. For mechanical equipment screening requirements and standards applicable to properties within the downtown mixed use (DMU) district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1996 , div. 2(Exh. A, 6.6), 8-16-2021)

14.16.245 Ministerial "by-right" process for multi-family housing projects.

A residential housing development project that contains two (2) or more residential units located on one or more contiguous parcels may qualify for the state-mandated ministerial, "by-right" approval process. Pursuant to California Government Code Section 65913.4, the "by -right," ministerial process is applicable to qualifying residential development projects that are located near major transit. The availability of the "by-right" approval process is determined by the city's annual housing progress report to the state department of housing and community development. Qualifying residential projects must: a) comply with a list of objective planning standards; b) meet specific levels of affordable housing; and c) be subject to a commitment to specific hiring (skilled and trained workforce) and prevailing wage requirements. The applicability of and requirements for the "by-right" process shall be adopted by resolution of the city council.

(Ord. No. 1964 , § 2(Exh. B) § 15, 11-19-2018)

14.16.250 Motor vehicle maintenance and storage in residential districts.

In any residential district, a person residing on a lot may service, repair or restore motor vehicles and store such vehicles, related equipment and parts, consistent with the following requirements:

A. The vehicle, part or item is owned by a person who resides on the same lot.

B. No more than two (2) vehicles may be worked on at one time.

C. Motor vehicle work shall be permitted only between the hours of nine a.m. (9:00 a.m.) and ten p.m. (10:00 p.m.).

D. Waste oils and other materials shall be disposed of properly and not discharged into the storm drain or sewer system.

E. Motor vehicle work and storage of cars being worked on shall be located within a garage or other paved parking area, provided that when the vehicle is not being worked on the vehicle and all parts and equipment shall be screened from off-site view.

F. Emergency motor vehicle work may be performed where otherwise prohibited by this section provided such activity shall not be conducted more than two (2) consecutive days.

G. Notwithstanding anything to the contrary herein, no such work shall be permitted which creates a nuisance as defined in Section 415 of the state Penal Code.

H. A person may store a vehicle(s) which cannot be legally, safely and mechanically operated upon a public highway provided that:

1. It is located within a garage or on a paved parking area and the vehicle is screened from off-site view; and

2. On a single-family or duplex lot, the front yard paved parking area is a one (1) to two (2) car driveway plus a paved area no greater than twelve feet (12') wide between the driveway and the nearest side property line. Paved parking areas may also be located in the rear or side yards; or

3. On a multifamily lot, the vehicle is located on a paved designated parking space(s).

(Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

14.16.260 Noise standards.

Any new development located in a "conditionally acceptable" or "normally unacceptable" noise exposure area, based on the land use compatibility chart standards in the general plan, shall require an acoustical analysis. Noise mitigation features shall be incorporated where needed to assure consistency with general plan standards. New construction is prohibited in noise exposure areas where the land use compatibility chart indicates the noise exposure is "clearly unacceptable."

A. Residential Development. The following standards apply to residential development:

1. Acoustical studies shall be required for all new residential development within projected sixty (60) dBA (Ldn) noise contours so that noise mitigation measures can be incorporated into project designs.

2. Usable outdoor area in low and medium density districts shall be sixty (60) dBA (Ldn) or less.

3. In high density and mixed use districts, residential interior standards shall be met and common, usable outdoor areas shall be designed to minimize noise impacts. Where possible, a sixty (60) dBA (Ldn) standard shall be applied to usable outdoor areas.

4. Interior noise standards for new single-family residential and residential health care development shall be forty (40) dBA (Ldn) for bedrooms and forty-five (45) dBA (Ldn) for other rooms. New hotels and motels shall meet a forty-five (45) dBA (Ldn) standard. For new multifamily development, hotels and motels, interior noise standards shall be described by State Administrative Code standards, Title 25, Part 2.

5. Noise standards shall be applied to multifamily remodeling requiring major environmental design review permits.

6. Post-construction monitoring and approval by an acoustical engineer shall be required in residential development near high noise sources to insure that city standards have been met.

B. Development Adjacent to Residential Areas. New nonresidential construction adjacent to residential areas shall not increase noise levels in a residential area by more than three (3) dBA (Ldn), or create noise impacts which would increase noise levels to more than sixty (60) dBA (Ldn) at the boundary of a residential area, whichever is the more restrictive standard. This standard may be waived by the planning director if, as determined by a noise analysis, there are mitigating circumstances (such as higher existing noise levels), and no uses would be adversely affected.

C. Development Adjacent to Commercial, Downtown Mixed Use, Mixed Use and Industrial Districts. New nonresidential development shall not increase noise levels in a commercial area by more than five (5) dBA (Ldn), or create noise impacts which would increase noise levels to more than sixty-five (65) dBA (Ldn) for office, retail or mixed use districts, or seventy (70) dBA (Ldn) for industrial districts, at the property line of the noise receiving use, whichever is the more restrictive standard. This standard may be waived by the planning director if, as determined by a noise analysis, there are mitigating circumstances (such as higher existing noise levels), and no uses would be adversely affected.

D. Traffic Noise Mitigation. A sixty-five (65) dBA (Ldn) level is considered an acceptable upper limit for existing residences constructed before July, 1988. Where exterior levels are sixty-five (65) dBA (Ldn) or greater at the face of a residential building, and traffic noise level increases of more than three (3) dBA (Ldn) affecting residential areas will be created by a program or development, reasonable noise mitigation measures shall be included in the program or development which is creating the increase.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 51, 6-21-2010; Ord. No. 1996 , div. 2(Exh. A, 6.7), 8-16-2021)

14.16.270 Nonconforming structures and uses.

A. Purpose. Within the districts established by this title or amendments thereto, there exist structures, uses of land, and characteristics of use which were lawful prior to the adoption of or amendment to this title, but which fail, by reason of such adoption or amendment, to conform to the present requirements of the zoning district. It is the purpose of this title to:

1. Permit nonconforming structures to remain and to allow for their regular maintenance and repair, under the regulations herein contained;

2. Limit the number and extent of nonconforming structures by prohibiting their being moved, altered or enlarged in a manner that would increase the discrepancy between existing conditions and the standards prescribed in this title, and by regulating their restoration after major damage;

3. Limit the number and extent of nonconforming uses by regulating their enlargement, their re-establishment after abandonment and their restoration after major damage of the structures they occupy.

B. Continuation of a Nonconforming Structure or Use. The lawful use of a structure or land, in existence and lawfully operating, although such structure or use does not conform to the regulations for the district in which it is located, may be continued provided that:

1. Such structure or use was legally in existence at the time of the passage of the ordinance codified in this title; or,

2. Such structure or use was legally in existence at the time of the adoption of any amendment to this title, but by such amendment such structure or use is not otherwise permitted; or,

3. Such structure or use was legally in existence at the time of annexation to the city, and has since been in regular and continuous use.

Change of ownership, tenancy or management of a nonconforming structure use shall not affect its status as a legal, nonconforming structure or use.

C. Regulations Pertaining to a Nonconforming Structure.

1. Ordinary maintenance and repairs may be made to a nonconforming structure as required to keep the structure in sound condition.

2. Alterations and additions may be made to a nonconforming structure provided that there shall be no increase in the discrepancy between existing conditions and the standards for the district.

3. No nonconforming structure shall be moved unless at its new location it conforms to the standards for the district.

4. A nonconforming structure damaged or destroyed to the extent of seventy-five percent (75%) or less of the current market value may be repaired or replaced in its existing location, provided such restoration is started within a period of one (1) year and is diligently prosecuted to completion.

5. A nonconforming single-family residential structure damaged or destroyed to the extent of more than seventy-five percent (75%) of the current market value may be repaired or replaced provided a building permit is obtained for such restoration within a period of one (1) year, the restoration is diligently prosecuted to completion and the structure is made to conform to all regulations of the district in which it is located; or, to the original condition provided that the building size is no greater than that which existed and the design is similar. An administrative design permit is required for any design changes. Such design changes should improve the architectural design of the structure or site design of the development.

6. All other nonconforming structures damaged or destroyed to the extent of more than seventy-five percent (75%) of the current market value may be repaired or replaced provided a use permit is obtained for such restoration within a period of one (1) year, restoration is diligently prosecuted to completion and the structure is made to conform to all regulations of the district in which it is located; or, to the original condition provided that a use permit is issued by the planning commission after finding that:

    a. The parking is consistent with Chapter 14.18, Parking Standards, and the design is compatible with the neighborhood in which it is located.

    b. In the commercial, office, mixed-use or industrial districts, no intensification of use is proposed.

D. Regulations Pertaining to a Nonconforming Use.

1. All use permits which were valid at the time the ordinance codified in this title went into effect shall be valid and remain in force and effect for the terms and subject to the conditions contained therein.

2. A nonconforming use shall not be permitted to increase in intensity of operation. An increase in intensity shall include, but not be limited to, extended hours of operation, substantial remodeling or an increase in number of seats or service area for bars and restaurants.

3. The nonconforming use of a structure or portion of a structure shall not be expanded into any other portion of the structure. The nonconforming use of land shall not be expanded or extended in area nor changed except to a conforming use. Nonconforming uses inherently consumptive of land (e.g., quarries) may be expanded, to the extent permitted by permits and other regulations in effect at the time of use approval.

4. The nonconforming use of a structure may be changed to a use of the same or more restricted nature; provided, that a use permit shall first be obtained.

5. If the nonconforming use of a structure ceases for a continuous period of twelve (12) months, it shall be considered abandoned and shall thereafter be used only in accordance with the regulations for the district in which it is located. Abandonment or discontinuance shall include cessation of a use for any reason, regardless of intent to resume the use.

6. If any structure which is occupied by a nonconforming use is hereafter removed, the subsequent use of land on which such structure was located and the subsequent location and use of any structure thereon shall be in conformity with the regulation specified by this title for the zoning district in which such land is located.

7. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

8. A structure occupied by a nonconforming use which is damaged or destroyed to the extent of less than fifty percent (50%) of the current market value may be restored and the nonconforming use may be resumed; provided, that a diligent effort to rebuild has been demonstrated within six (6) months and restoration is diligently pursued to completion.

9. A structure occupied by a nonconforming use which is damaged or destroyed to the extent of fifty percent (50%) or more of the current market value may be restored (subject to the limitations of subsection C above) and the subsequent use of land on which the structure was located shall be in conformity with the regulations specified by this title for the zoning district in which such land is located.

10. Legal dwelling units, existing or approved as of January 1, 1991, shall be considered conforming uses, except for such units in the marine, light industrial/office districts, and industrial districts, and for single-family units in downtown mixed-use districts. These units are subject to the provisions of Section 14.16.060.

E. Determination of Value. Estimates for the purpose of determining the extent of damage or partial destruction shall be made by or shall be reviewed and approved by the planning director.

(Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 52, 6-21-2010)

14.16.275 Amortization of nonconforming dwelling units.

A. With the exception of the dwelling units described in Section 14.16.060 (Conservation of dwelling units), any dwelling unit which becomes a nonconforming use on the effective date of Ordinance No. 1731, the ordinance codified in this section, shall be subject to an amortization period expiring one year from the effective date of such ordinance. At the end of such amortization period, any such dwelling unit shall become illegal, unless the owner has applied for and obtained any required land use permit in conformance with this title, or has applied for an extension of the amortization period as provided hereafter.

B. The community development department shall publish and post a written notice at least one hundred twenty (120) days prior to the expiration of the amortization period, advising any owners of such nonconforming dwelling units shall become illegal at the end of such amortization period unless the owners have applied for and not been denied any required land use permit for such units, or applied for an extension of the amortization period as provided hereafter.

C. The owner of any such nonconforming dwelling unit may file an application with the community development department for an extension of the amortization period. The application shall be made in writing in a form approved by the community development director, and shall be accompanied by the required processing fee. Any application shall be made prior to the expiration of the amortization period, unless the planning commission determines that good cause exists for the late filing of the application.

D. Within forty-five (45) days following receipt of a completed application for an extension of the amortization period, the planning commission shall hold a public hearing on the application, after giving notice to all property owners within three hundred feet (300') of the property. The planning commission shall consider the evidence and testimony presented at the public hearing, and shall thereafter grant or deny an extension. In rendering its decision, the planning commission shall determine whether the nonconforming dwelling unit has been provided with a reasonable amortization period commensurate with the investment involved. If the planning commission determines that the amortization period is not reasonable, it shall prescribe an amortization period that is commensurate with the investment involved. The burden shall be on the applicant for the extension to establish that the extension should be granted.

E. In making its determination on the application for an extension, the planning commission shall consider the following factors:

1. The owner's investment in the dwelling unit improvements;
2. The present actual and depreciated value of the dwelling unit improvements;
3. The applicable Internal Revenue Service depreciation schedules;
4. The remaining useful life of the dwelling unit improvements;
5. Any remaining lease term for the dwelling unit;
6. The ability of the owner to make the dwelling unit a conforming use by permit under this title;
7. The secondary effects of the dwelling unit on the health, safety, and welfare of surrounding residential uses if the amortization period is extended;
8. Any other competent evidence relevant to the determination of a reasonable amortization period commensurate with the investment involved.

F. A copy of the planning commission's decision shall be sent by regular mail to the applicant.

G. Any interested person may appeal the planning commission's decision to the city council, within five (5) work days after the planning commission's decision, in conformance with the provisions of Chapter 14.28 of the Municipal Code.

H. The city council declares to be a public nuisance any lot where the nonconforming dwelling unit is operating and where the amortization period as a nonconforming use has expired, and (a) no permit required by this title has been obtained or (b) no application for an extension of the amortization period is on file or been granted.

(Ord. 1731 § 3, 1998).

14.16.277 Use of city sidewalks and rights-of-way for outdoor eating areas.

A. Notwithstanding any other provisions of this title, the use of city sidewalks or other city rights-of-way for outdoor eating areas is prohibited without a license agreement between the adjacent food service establishment and the city, which license agreement shall be in lieu of any environmental design review permit, use permit, administrative use permit, encroachment permit or other permit required for use of the city sidewalk or right-of-way for such purpose.

B. Such license agreements shall be in a form approved by the city attorney, and shall include the applicable standards provided in Section 14.17.110(C), indemnification of the city, and liability insurance naming the city as an additional insured in an amount not less than one million dollars ($1,000,000.00) and in a form as approved by the city's risk manager.

C. Such license agreement also shall be subject to such regulations hereafter deemed necessary by the community development director to protect the public health, safety, and welfare, and as approved by resolution of the city council.

D. Such license agreements may be approved by the community development director and may be revoked at the pleasure of the city council.

E. The placement of outdoor seating area barriers shall allow a minimum six-foot (6’) wide clear pathway for sidewalks located within the public rights-of-way.

F. In lieu of the aforementioned license agreement, the city council may enter into a lease agreement between the adjacent food service establishment at a rate and term to be determined by the city council, and as approved by resolution of the city council.

(Ord. 1751 § 6, 2000).

14.16.279 Relocation assistance for displaced residential rental unit tenants.

A. Purpose. The purpose of this chapter is to mitigate the impact of a development project or property improvement such as a renovation or rehabilitation, which results in the displacement of low-income household tenants of record from their residences, by requiring applicants or property owners to provide certain, limited relocation assistance to such tenants.

B. Applicability. The provisions of this section shall apply to any development project or property improvement that is subject to a planning permit or approval required by this title and a building or a demolition permit that will result in the displacement of low-income, residential unit tenants of record. A tenant of record is a tenant that appears on a valid lease or rental agreement for the residential unit being vacated. This section is not applicable to:

1. Any development project that is subject to a legal requirement for the provision of relocation assistance under any provision of federal or state law;

2. Tenant displacement from a dwelling unit that the city has determined to be illegal and which is ordered abated by action of the city; and

3. A tenant of record that is displaced for unit renovation and is temporarily relocated by the property owner to another residential unit that is located either on the subject property or off-site, with the intent and goal of returning to the renovated apartment unit, or to another unit on-site, which has a comparable bedroom count.

The provisions of this section may be imposed as a condition of any planning permit or required prior to the issuance of a building permit or demolition permit.

C. Required Notice to Tenant of Record. The property owner proposing the development project or property improvement that will result in displacement of a tenant from a residential unit shall give any tenant of record proposed to be displaced a written notice at least sixty (60) days in advance of the date the tenant of record shall be required to vacate the real property. The notice shall comply with the following:

1. The notice shall be delivered to the tenant of record in person or by first class certified mail. The notice shall specify the date on which the real property is to be vacated, and shall include the following statement:

"The City of San Rafael requires property owners to provide certain assistance to low-income tenants of record who are forced to permanently move or relocate because of planned property development, property improvements and/or residential unit renovation. You are eligible to receive this assistance if you can demonstrate that your household qualifies as low-income, as defined in the attached income schedule published by the Marin County Housing Authority. To qualify for relocation assistance you must complete, sign and return the attached income verification form confirming that you meet the income limits for a low-income household. You must return this income verification form to the property owner no later than two weeks following the date you receive this notice."

2. The notice shall include the most current Marin County median family income schedule published by the Marin County Housing Authority, specifying the range of household size and the maximum, annual household income for each household size to qualify as low-income.

3. The notice shall include an income certification form or affidavit to be completed and submitted by the tenant of record. To verify annual household income, the property owner may request that the tenant of record submit additional supporting documentation such as a copy of the latest, filed, income tax return.

4. Simultaneous to tenant notification, a copy of the notice and list of tenants of record receiving the notice shall be filed with or delivered, via certified mail, to the community development department.

D. Relocation Payment to Tenant of Record. No later than thirty (30) days prior to the date the tenant of record is displaced, the property owner shall provide the following to each displaced tenant of record who demonstrates that his or her household qualifies as a low-income household:

1. A referral to the Marin Housing Assist Line to obtain a list of low-income rental housing units available in the area; and

2. Cash in a sum equal to two (2) times the then current monthly rental of the residential unit being vacated. In lieu of cash, the tenant of record can request an in-kind payment to the provider(s) of the alternative housing for the tenant of record. The property owner is required to make one (1) relocation assistant payment only to the tenant of record for every residential unit that is vacated on the real property. If the residential unit being vacated is occupied by more than one (1) tenant of record that qualifies as a low-income household, the payment shall be prorated based on the number of qualified tenants of record in the household.

Following relocation payment, the property owner shall file or deliver, via certified mail, to the community development department, a list of tenants of record receiving relocation payment.

E. Additional Requirements for Development Projects or Property Improvements involving Multiple Buildings, Phased Construction and/or Phased Vacation of Residential Units for Renovation. For projects involving residential unit renovation that results in phased improvements and/or phased tenant displacement, the following shall be prepared and submitted to the community development department in conjunction with the review and processing of a planning permit, or prior to the issuance of a building permit or grading permit:

1. A resident relocation plan. The resident relocation plan shall include:

a. A projected construction schedule and expected dates for unit vacation and tenant displacement;

b. Information regarding projected rents, timing and availability for renovated apartments;

c. Information regarding on-site, temporary relocation options for tenants, if applicable; and

d. A list of property addresses for apartment complexes in the general area of the site that may have available rental units.

2. Verification that an escrow account has been opened and is active for payment of relocation assistance pursuant to Section 14.16.279D, above.

F. Revocation of Permits. Failure to comply with any provision of this section shall be grounds for revocation of any permit or other approval issued by the city in relation to the development project, subject to the procedures established by this code for revocation of the permit or other approval in question.

(Ord. 1838 § 37, 2005).

(Ord. No. 1882, Exh. A, § 53, 6-21-2010)

14.16.280 Satellite dishes in residential districts.

The intent of these regulations is to locate satellite dishes where they are least visible from public rights-of-way in the vicinity, while not burdening adjacent property owners with adverse visual impacts. The intent is not to impose unreasonable limitations on reception, although the city recognizes that to ensure aesthetic values, perfect and/or unlimited reception may not be possible. To ensure that satellite dishes do not have an adverse impact on the public safety and aesthetic values in the city's residential neighborhoods, installation of satellite dishes in excess of forty inches (40") in diameter shall meet the following standards.

A. Only one satellite dish is permitted on a lot.

B. Location in any required yard adjacent to a street is prohibited unless the dish is not visible from the street.

C. The satellite dish shall meet the setback and height requirements for accessory structures, except that any satellite dish which is higher than eight feet (8′) shall meet the setback requirements for the district.

D. The satellite dish shall be mounted on the ground.

E. The satellite dish shall be screened from view from a public or private street.

F. The satellite dish shall be finished in a color to blend in with the immediate surroundings.

Requests for modifications from the above standards will be referred to the planning commission for review and determination.

(Ord. 1838 § 38, 2005: Ord. 1625 § 1 (part), 1992).

14.16.282 SB 9 Housing Developments.

A. Purpose. The purpose of this section is to provide procedures and development standards for the establishment of SB 9 Housing Developments pursuant to Government Code Section 65852.21. To accomplish this purpose, the regulations outlined herein are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development.

B. Filing, Processing and Action.

1. Ministerial Review. An SB 9 Housing Development shall be ministerially approved, without discretionary review or hearing, if the proposed housing development meets all provisions of this chapter. Review shall be done through submittal of a building permit application.

2. The city shall act on an application for an SB 9 Housing Development within sixty (60) days of receipt of a complete application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay. The city has acted on the application if it:

   a. Approves or denies the building permit for the SB 9 Development; or

   b. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter or other applicable laws and regulations.

3. Adverse Impact Upon Health and Safety. A proposed SB 9 Housing Development shall be denied if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed SB 9 Housing Development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

4. Limitations on Approval. A proposed SB 9 Housing Development shall not be eligible for approval pursuant to this chapter if any of the following circumstances apply:

   a. The SB 9 Housing Development would require demolition or alteration of "protected housing." Protected housing includes:

      Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

      Housing that is subject to rent control through valid local rent control provisions.

      Housing that has been occupied by a tenant in the last three (3) years.

   b. The SB 9 Housing Development would be located on a parcel on which the owner has withdrawn it from renting or leasing under Section 7060 of the Government Code within fifteen (15) years preceding the development application (i.e., an exit of the rental housing business pursuant to the Ellis Act).

   c. The SB 9 Housing Development would be located within a historic district, would be included on the State Historic Resources Inventory, or would be within a site that is legally designated or listed as a city or county landmark or historic property or district.

   d. The SB 9 Housing Development would be located in any of the specified designated areas set forth in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 of the California Government Code, unless requirements therein are met.

C. Development Standards. The following objective development standards shall apply to SB 9 Housing Developments. In addition to these standards, all provisions of the California Building Code shall apply to SB 9 Housing Developments.

   1. General Standards.

      a. SB 9 Housing Developments may either be detached or attached, as long as attached structures meet building code safety standards and are sufficient to allow separate conveyance.

      b. SB 9 Housing Developments shall be permitted in all single-family residential zones including R2a, R1a, R20, R10, R7.5, and R5.

      c. Short Term Rentals Prohibited. The rental of any unit in an SB 9 Housing Development shall be for a term of longer than thirty (30) days.

      d. Utility Connections. Each primary unit in an SB 9 Housing Development shall be served by separate water, sewer and electrical utility connections which connect each unit directly to the utility.

      e. Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) shall be permitted as set forth in Section 14.16.285—Accessory Dwelling Units on parcels not created through an urban lot split (Chapter 15.155).

      f. On parcels created through an urban lot split (Chapter 15.155) that also contain an SB 9 Housing Development, accessory dwelling units (ADUs) shall be permitted as set forth below:

         i. An SB 9 Housing Development proposing one (1) primary dwelling unit shall be permitted either one (1) ADU or one (1) JADU as set forth in Section 14.16.285—Accessory Dwelling Units on the parcel. All other provisions and development standards of Section 14.16.285 shall apply.

ii. An SB 9 Housing Development proposing a total of two (2) primary dwelling units (where either of the two (2) primary dwelling units are existing or proposed) shall not be permitted any ADU/JADU on the same parcel.

iii. A single-family home with an ADU and JADU that was issued a building permit prior to July 18, 2022, shall not otherwise preclude an applicant from developing two (2) dwelling units pursuant to the provisions of this section on a vacant lot created through an urban lot split (Chapter 15.155).

iv. The rental of any ADU/JADU shall be for a term of longer than thirty (30) days. This applies retroactively to any existing ADU/JADU on a parcel that subsequently utilizes the provisions of an SB 9 Development or an urban lot split (Chapter 15.155).

2. Objective Development Standards. All applicable objective development standards set forth in Title 14—Zoning of the San Rafael Municipal Code apply to an SB 9 Housing Development. However, where the following standards conflict or are inconsistent with objective development standards in Title 14, the following standards shall prevail:

a. Four-foot rear and side yard setbacks are required.

b. Sixteen-foot height limit for portions of new development located outside the minimum rear and side yard setbacks of the parcel's zoning district. This height limit shall not be imposed for an SB 9 Housing Development constructed in the same location and to the same dimensions as an existing structure.

c. One (1) off-street parking space is required per dwelling. No parking shall be required if:

i. The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code; or

ii. There is a designated area where a car share vehicle may be accessed within one (1) block of the parcel.

3. Exceptions to Development Standards.

a. Notwithstanding subsection 2 of this section, all development standards shall be subject to the following exceptions:

i. Any standards that would have the effect of physically precluding the construction of two (2) units of at least eight hundred (800) square feet shall not be imposed.

ii. Election of development standards. If necessary, objective zoning, subdivision, or design standards will be set aside in the following order until the site can contain two (2), eight hundred-square-foot units:

a) Natural state (where applicable) or lot coverage, whichever is more restrictive on the subject parcel;

b) Natural state (where applicable) or lot coverage, whichever is less restrictive on the subject parcel;

c) Front setbacks;

d) Second floor area limitations;

iii. No setback shall be imposed for an SB 9 Housing Development constructed in the same location and to the same dimensions as an existing structure.

b. SB 9 Housing Developments are not eligible for any additional exceptions, variances, or other deviations from the objective development standards.

(Ord. No. 2013 , § 2, 8-1-2022)

14.16.285 Accessory dwelling units (ADUs).

A. Purpose. The purposes of the ADU regulations are to:

1. Implement policies of the housing element of the San Rafael general plan encouraging the provision of accessory dwelling units as a source of affordable housing;

2. Establish a streamlined process for reviewing applications for ADUs;

3. Establish a list of development standards for ADUs; and

4. Comply with provisions of state law as they relate to the development of ADUs;

B. Applicability. An ADU as defined in Chapter 14.03 is permitted in any zoning district that allows the development of single-family or multifamily dwelling residential uses. ADUs may be permitted on any lot with a legal nonconforming residential structure. See exceptions in Section 14.16.282.C.1.f for limitations on parcels created by an urban lot split (Chapter 15.155). The following are the four (4) types of accessory dwelling units permitted within the city:

1. Attached ADU. An accessory dwelling unit that shares at least one (1) common wall with an existing primary dwelling and is not fully contained within the existing space of the primary dwelling or an accessory structure. An attached ADU also includes an ADU which is proposed to be constructed concurrently with a proposed primary dwelling unit and which is attached to or constructed within said primary dwelling unit.

2. Detached ADU. An accessory dwelling unit that does not share a common wall with the existing or proposed primary dwelling and is not fully contained within the existing space of an accessory structure.

3. Internal ADU. An accessory dwelling unit that is fully contained within the existing space of an existing primary dwelling or contained within the existing space of an existing accessory structure.

4. Junior accessory dwelling unit ("JADU"). As defined in section 14.03.030 "definitions."

C. Ministerial Review. A proposed ADU or JADU that complies with the following development standards (subsections C.1 and C.2.), objective design standards (subsection C.3) and general standards (subsection C.1.d), shall be approved ministerially within the time frames established by subsection D of this section, and shall only be subject to issuance of a building permit. No discretionary review or public hearing shall be required.

1. Except as permitted by subsection E of this section, development standards applicable to all accessory dwelling units shall be as set forth in Table 14.16.285:

Table 14.16.285

	Attached ADU	**Detached ADU**	**Internal Conversion ADU**	**JADU***	**NOTES**
Minimum Floor Area	150 square feet	150 square feet	150 square feet	150 square feet	
Maximum Floor Area	1,000 sq. ft. or 50% of the	1,000 square feet	N/A	500 square Feet	

		floor area of an existing primary dwelling unit, whichever is less				
Lot Coverage Limits		None	None	None	None	
Setbacks	(Minimum)					
	Front	Same as primary dwelling	Same as primary dwelling	N/A	N/A	
	Side	4 feet	4 feet	N/A	N/A	(A)
	Rear	4 feet	4 feet	N/A	N/A	(A)
	Front Entry	10 feet from any right-of-way	10 feet from any right-of-way	N/A	N/A	
Maximum Height		16 feet	16 feet	N/A	N/A	(B), (C)
Parking		1 space	1 space	None	None	(D)
Separate independent entrance required?		Yes	Yes	Yes	Yes	
Interior access allowed?		No	No	No	Yes	
Separate sanitary facility required		Yes	Yes	Yes	No	(E)
Kitchen required		Yes	Yes	Yes	Yes	(F)

;note; * See subsection C.2 for additional requirements for junior accessory dwelling units

(A) Decks, balconies and platforms greater than twelve (12") attached to or associated with a detached or attached accessory dwelling unit shall be located at least four feet (4')from a rear or side property line.

(B) Height measurement shall be as defined by SRMC Section 14.03.030 except as follows:

1. Height measurement shall exclude flagpoles not exceeding a height of twenty-four feet (24'), aboveground utility distribution facilities including communications towers and public water tanks, windmills, monuments, mechanical appurtenances, satellite dishes in multifamily and nonresidential districts and architectural features such as screening for mechanical equipment, chimneys, steeples and cupolas.

(C) EA-overlay district exception to height standard: See Section 14.16.285.C.3.b. for exception to height standard in Eichler-Alliance Overlay District.

(D) Parking see parking subsection C.5. for exclusions to the parking requirements.

(E) A JADU may include separate sanitary facilities or share sanitary facilities with the primary residence.

(F) A JADU shall include a kitchen as defined in SRMC Chapter 12.255 "California Residential Code Amendments".

2. JADU Additional Standards. In addition to the development standards in Table 14.16.285 and objective design standards in section C.3, a JADU shall comply with all provisions of this subsection unless expressly indicated otherwise:

a. Maximum Number per Lot. Not more than one (1) JADU shall be permitted per legal lot.

b. Rental. A JADU may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling.

c. Owner-occupancy shall be required in the single-family residence in which the JADU will be permitted. The owner may reside in either the remaining portion of the structure or the newly created JADU. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

d. A deed restriction shall be recorded, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(1) A prohibition on the sale of the JADU separate from the sale of the single-family residence, including a provision that the deed restriction may be enforced against future purchasers.

(2) A restriction on the size and attributes of the JADU that conforms with this subsection.

3. Objective Design Standards. Except as provided in subsection E of this section (units subject to limited standards), an ADU shall comply with the following design standards:

a. Foundation. An accessory dwelling unit shall be constructed on a permanent foundation.

b. In Eichler Alliance (EA) district, an ADU shall not exceed the height of the existing residence or a maximum height of seventeen (17) feet, whichever is less.

4. General Standards. Except as provided in subsection E of this section (units subject to limited standards), an ADU shall comply with the following general standards:

a. Maximum Number per Lot. Not more than one (1) ADU shall be permitted per legal lot.

b. Rental. An ADU may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling, except as provided in California Government Code Section 65852.26, as that section may be amended.

5. Parking.

a. One (1) parking space shall be provided per ADU except where the proposed ADU meets any criteria of subsection b. of this subsection. This parking space may be permitted anywhere on the lot, may be tandem parking on a driveway, and may be covered or uncovered.

b. No parking shall be required for the following:

(1) The ADU is located within one-half (½) mile walking distance of public transit as defined in Government Code 65852.2(j)(9), as that section may be amended, at the time the application is filed with the community development department.

(2) The ADU is located within an architecturally and historically significant historic district.

(3) The ADU is part of the proposed or existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the ADU.

(5) When there is a car share vehicle located within one (1) block of the ADU at the time the application is filed with the department.

c. When a garage, carport, or covered parking structure is demolished in conjunction with the constructions of an ADU or converted to an ADU, those off-street parking spaces need not be replaced.

6. Nonconforming Conditions. The city shall not require, as a condition for approval of an ADU application, the correction of nonconforming zoning conditions.

7. Building Code and Housing Code. A new or expanded ADU shall comply with the Uniform Building Code and Uniform Housing Code in addition to the requirements of this section.

D. Timeline for Review

1. The city shall act on the ADU application within sixty (60) days from the date the city receives a completed application if there is an existing single-family or multifamily dwelling on the lot.

2. If the ADU application is submitted together with a permit application to create a new single-family dwelling on the lot, the city may delay acting on the ADU permit application until the city acts on the permit application to create the new single-family dwelling.

3. When Dependent on Separate Construction. When a proposed attached ADU or detached ADU is dependent on the construction of a new building or new portion of a building that is not a part of the ADU ("separate construction"), the city shall either:

   a. Accept and begin processing the ADU application only after acting on an application for the proposed separate construction; or

   b. Upon written request from the applicant, review and act on the ADU together with the separate construction as part of a single application. In this case the ADU is subject to the same review procedures and requirements as the separate construction.

4. If the applicant requests a delay in the processing of an ADU application, the 60-day time period set forth in subsection D.1 of this section shall be tolled for the period of the delay.

5. The city shall be deemed to have acted on the application if the city:

   a. Approves a building permit for the ADU; or

   b. Denies a building permit for the ADU; or

   c. Determines that the ADU does not qualify for ministerial approval.

E. Units Subject to Limited Standards. Without regard to subsections C.1 and C.2 (Development Standards), subsection C.3 (Objective Design Standards) and subsection C.4 (General Standards) of this section, the city shall ministerially approve an application for a building permit within a residential or mixed-use district to create any of the four (4) types of ADUs described below. The below categories of ADUs shall not be combined (only one (1) of the four (4) categories of ADUs shall be approved pursuant to this section, per lot). For each type of ADU, the city shall require compliance only with the standards in this subsection:

1. Internal ADU. One (1) ADU and one (1) JADU as follows:

   a. The ADU and JADU are within the proposed space of a single-family dwelling or existing space of a single-family dwelling or existing accessory structure and may include an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

   b. The space has exterior access from the proposed or existing single-family dwelling.

   c. The side and rear setbacks are sufficient for fire and safety.

   d. The JADU complies with the definition in section 14.03.030 of this code and the requirements of subsection C of this section.

2. New Construction. One (1) detached or one (1) attached, new construction ADU per lot with an existing single-family dwelling. The ADU may be combined with a JADU as defined in section 14.03.030 (Junior accessory dwelling units) and described in subsection C of this section (JADU). The ADU must comply with the following:

    a. Maximum floor area: Eight hundred (800) square feet.

    b. Maximum height: Sixteen (16) feet.

    c. Minimum rear and side setbacks: Four (4) feet.

3. Conversion of Non-Livable Multifamily Space. Multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, subject to the following:

    a. At least one (1) ADU is allowed within an existing multifamily dwelling up to a maximum of twenty-five percent (25%) of the existing multifamily dwelling units; and

    b. Each ADU shall comply with building code standards for dwellings.

4. Detached ADUs on a Multifamily Lot. Not more than two (2) ADUs that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to the following:

    a. Maximum height: Sixteen (16) feet

    b. Minimum rear and side setbacks: Four (4) feet.

5. An ADU permitted under this subsection E shall not be rented for less than thirty (30) days.

(Ord. 1838 § 39, 2005; Ord. 1802 § 1, 2003).

(Ord. No. 1882, Exh. A, §§ 54—56, 6-21-2010; Ord. No. 2002 , div. 11, 12-6-2021; Ord. No. 2013 , § 4, 8-1-2022)

14.16.286 Reserved.

Ord. No. 2002 , div. 12, adopted December 6, 2021, repealed § 14.16.286, which pertained to junior second units and derived from Ord. No. 1937 , § 2, January 19, 2016.

14.16.290 Shoreline embankments.

Rock rip rap, or clean, sized concrete with rock rip rap facing shall be used on the outside face of levees facing the bay whenever levee improvements are required.

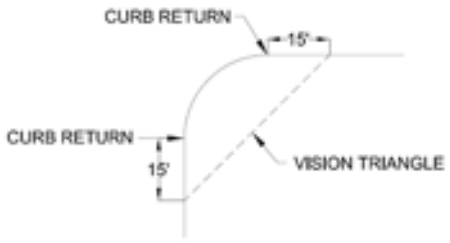
(Ord. 1625 § 1 (part), 1992).

14.16.295 Sight distance.

A. Fencing, vegetation and improvements shall be established and maintained only in a manner that does not reduce visibility for the safe ingress and egress of vehicles or pedestrians within a required vision triangle, e.g., fifteen feet (15') from the curb return at any intersection or driveway, or as determined by the director of public works. In general, fencing and improvements or vegetation located within the established vision triangle (as determined below) shall not exceed a height of three feet (3') as measured above the adjacent street pavement. The vision triangle shall be kept free of any visual obstruction between a height of three feet (3') to eight feet (8') above the street grade elevation.

The typical vision triangle area shall be determined as follows:

Illustration 14.16.295



B. For locations that have obstructions due to unique site constraints or topography, the vision triangle shall be determined by the director of public works.

C. The provisions of this section are not applicable to properties within the downtown mixed use (DMU) district. For sight distance provisions and standards in the downtown mixed use district, see the Downtown San Rafael Precise Plan Form-Based Code which is adopted by separate ordinance and incorporated herein by reference.

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1996 , div. 2(Exh. A, 6.7), 8-16-2021)

14.16.300 Small lots.

Development of small lots shall be permitted in accordance with all the requirements of the district. Such development shall be considered conforming with the following additional limits in residential districts:

A. No small lot shall be further reduced in area or width, except as required for public improvements.

B. Small lots which are contiguously owned are subject to the merger provisions of the State Subdivision Map Act.

C. This section does not apply to the PD district.

(Ord. 1694 § 1 (Exh. A) (part), 1996: Ord. 1625 § 1 (part), 1992).

(Ord. No. 1990 , div. 1.5, 3-1-2021)

14.16.305 Small wind energy systems.

A. Purpose. This section establishes standards to regulate the design and placement of small wind energy systems on public and private property to minimize the potential safety and aesthetic impacts on neighboring property owners and the community.

B. Applicability. Standards for small wind energy systems shall apply in all residential, commercial & office, industrial, planned development, marine, and public/quasi-public zoning districts. Small wind energy systems shall not be permitted in the parks/open space and water zoning districts.

C. Development Standards.

1. Height. Tower height of freestanding small wind energy system shall not exceed the maximum height limit above grade established for principal structures in the applicable zoning district, except as may be allowed through design review and consistent with the provisions of Section 14.16.120. The tower height shall not include the wind turbine itself, except as noted in Section 14.16.305,C.2. below to determine appropriate setbacks.

2. Setbacks. Small wind energy systems shall be located a minimum distance from all property lines equal to one-half (½) of the total extended height of the unit above grade or the roof mounting point. The total extended height shall include the distance above grade to a blade tip of a wind turbine at its highest point of travel. Small wind energy systems may not be located in a front or side yard setback area.

3. Noise. Small wind energy systems shall operate within the noise limitations established in Section 14.16.320 and Chapter 8.13 of the Municipal Code, except that these limits may be exceeded during severe wind storms.

4. Access. If a climbing apparatus is present on the tower within twelve feet (12') of grade, access to the tower shall be controlled by one (1) of the following means:

   a. Removal of climbing pegs or rungs within twelve feet (12') of grade,

   b. Installation of a locked anti-climb device on the tower,

   c. Installation of a locked, protective fence at least six feet (6') in height that encloses the tower; or

   d. Other means of security deemed comparable by the building official.

5. Minimum Clearance. A minimum clearance of at least twelve feet (12') shall be maintained from the ground level surface elevation to the blade tip of a wind turbine at its lowest point of travel.

6. Lighting. No illumination of the turbine or the tower shall be allowed, except where required by the Federal Aviation Administration.

7. Signage. No signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification shall be allowed on a small wind energy system.

8. Reserved.

9. Requirement for Engineered Drawings. Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer.

D. Abandonment. A wind turbine which is inoperable for six (6) consecutive months or deemed unsafe by the building official shall be removed by the owner.

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1964 , § 2(Exh. B) § 16, 11-19-2018)

14.16.307 Solar installations.

A. Solar installations on developed properties. As provided under federal law, installation of solar panels on the roof of permitted structures and paved parking areas or on the grounds of developed property that are intended to offset the energy demand of the use of the property and in compliance with all applicable zoning district development standards shall be permitted by right, subject to issuance of a building permit and ministerial review for compliance with the following standards:

1. An environmental and design permit shall not be required for a solar installation proposed on a developed property, consistent with these provisions and Section 14.25.040.D.4.

2. A solar installation shall include all associated equipment, such as an inverter required to convert power from direct current "DC" to alternating current "AC" and connections made between the site and power grid equipment. Associated equipment does not include a substation.

3. The solar installation shall not be placed within any required front or exterior side yard setback or within a required landscape area. Further, the solar installation shall not require removal of any required landscaping improvements or native vegetation that is within a required natural state area established pursuant to the Hillside Overlay District regulations of Chapter 14.12. Landscaping modifications may require design review approval, pursuant to Chapter 14.25.

4. Consistent with state law (Ca Civil Code Section 714.1 - Solar Rights Act, amended 2004), private covenants, conditions and restrictions (CC&R's) cannot prohibit installation of solar equipment on buildings.

5. The city may impose reasonable restrictions that do not significantly increase cost of systems for solar heating more than twenty percent (20%) or photo-voltaic more than two thousand dollars ($2,000.00), or decrease efficiency more than twenty percent (20%).

6. The city may require that panels be designed with low-reflectivity or glare-resistant surfaces to the extent necessary to protect public health, safety and welfare, be placed as close to roof or grade surface as feasible, and provide screening of the structural supports, as deemed necessary and feasible; subject to limitations imposed by state law regarding impact upon the cost and efficiency of the solar energy system. The facility may not be denied solely for aesthetic reasons.

7. Consistent with the provisions of state law, shade control protections, private parties can resolve any disputes with respect to the Solar Shade Control Act (Ca Public Resources Code Div. 15, Section 25980 et. seq., Solar Shade Control Act) through a civil action.

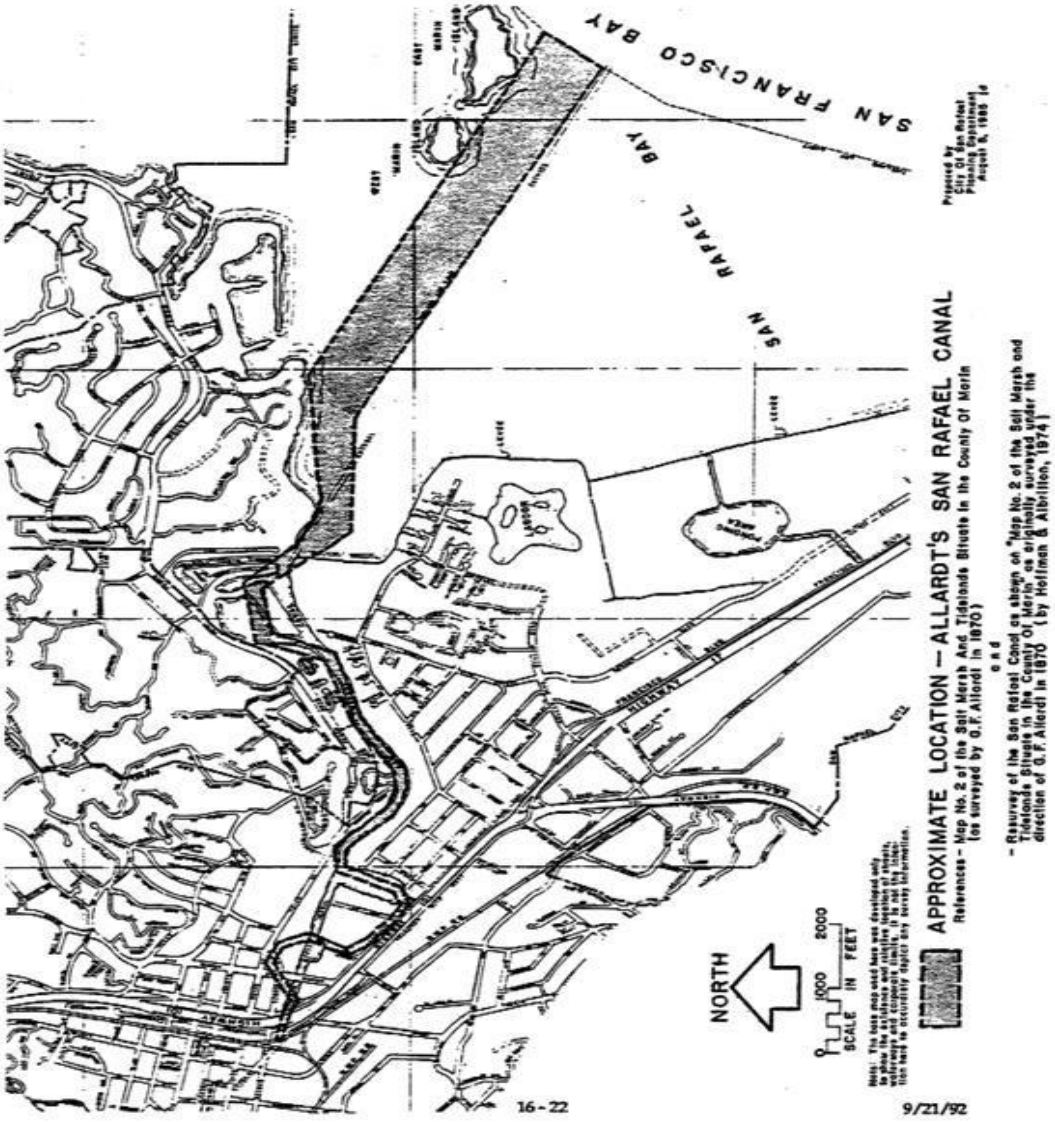
B. Solar energy production facilities for off-site power distribution. A conditional use permit approval shall be required to establish a solar energy production facility that is intended to produce energy for distribution to the power grid, that is proposed other than on existing buildings or paved parking lots (e.g., solar power plant or "energy farm", as regulated under Ca Codes Public Utilities Code Section 2868-2869, as it may be amended from time to time). Solar energy production facility(s) shall only be established where "utility facilities" are listed as a conditionally permitted quasi-public use in the underlying zoning district land use table(s).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.310 State lands commission title claims (Allardt's Canal).

Where development is proposed within Allardt's San Rafael Canal (see Map 14.16.310), public trust title claims shall be resolved consistent with state law, subject to approval of the State Lands Commission.

Map 14.16.310



(Ord. 1625 § 1 (part), 1992).

14.16.320 Swimming pools, hot tubs, and other mechanical equipment.

No swimming pool, hot tub, air conditioning unit or mechanical equipment shall encroach into any front yard or street side yard setback. No pump or filter installation, air conditioning unit or similar mechanical equipment, including new but not limited to transformers for electric vehicle charging stations and wind energy systems, shall be less than five feet (5') from any property line. If a pump or filter or any similar mechanical equipment, including new but not limited to transformers for electric vehicle charging stations and wind energy systems, is located within fifteen feet (15') of any bedroom window on an adjacent lot, a three (3) sided solid enclosure with baffles to screen the equipment from the bedroom, or equally effective measure(s), shall be provided to reduce noise impact. Sound attenuation shall be provided around mechanical equipment to ensure that any mechanical noise that is perceptible at the property line (and generally measured in direct line of sight of the equipment) is

attenuated to the maximum extent practicable and that daytime/nighttime thresholds established under SRMC Table 8.13-1 for the applicable zoning district are not exceeded.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.16.330 Transfer of density among properties.

A. Unique or Special Circumstances. Transfer of density among properties shall not be permitted except in cases where there are unique or special circumstances (such as preservation of wetlands, or historic buildings identified in the San Rafael Historic Building Inventory) which would cause severe environmental impacts if the transfer were not allowed.

B. Use Permit Required. Transfer of density among properties shall be reviewed by the planning commission through the use permit process.

C. Application. Applications for use permits for transfer of density among properties shall include but not be limited to the following information:

   1. Affidavits of consent from owners of all donor and receiving properties;

   2. A calculation of the floor area ratio and/or density to be transferred;

   3. A description of the proposed dedication, easement or covenant.

D. Findings. In order to approve a transfer of density among properties, the following findings shall be made:

   1. All of the findings required for a use permit listed in Chapter 14.22, Use Permits;

   2. There are unique or special circumstances (e.g., significant wetland, or historic building identified in the historic building overlay district) which exist on the subject property which would cause severe environmental impacts or degradation of historic value of a building or property if the transfer were not allowed;

   3. Proposed development for the receiving property shall be compatible in scale and design with surrounding properties.

E. Conditions of Approval. A use permit approving transfer of density among properties shall contain as condition(s) of approval the requirement of adequate mechanisms such as a recorded restrictive covenant which runs with the donor and receiving tracts, or equally effective mechanisms, to ensure permanent accountability of the density transfer. The mechanism shall affect all properties involved in the transfer of density.

(Ord. 1625 § 1 (part), 1992).

14.16.335 Transfer of floor area ratio (FAR) between or among properties.

A. Transfer of floor area ratio (FAR) between or among properties shall not be permitted except under special circumstances as specified below.

B. Use Permit Required. Transfer of FAR among properties shall be reviewed by the city council, with recommendation by the planning commission, through the use permit process.

C. Application. Applications for use permits for transfer of FAR among properties shall include but not be limited to the following information:

1. Affidavits of consent from owners of all donor and receiving properties;
2. A calculation of the floor area ratio and/or density to be transferred;
3. A description of the proposed dedication, easement or covenant;
4. Any other information deemed necessary by the community development director.

D. Findings. In order to approve a transfer of floor area ratio (FAR) among properties, the following findings shall be made:

1. The development of the beneficiary parcel is consistent with the general plan, except that FARs or maximum densities may be exceeded, and
2. The proposed development will comply with all applicable zoning and design parameters and criteria as well as traffic requirements; and one or both of the following:
   a. A unique or special circumstances are found to exist (e.g. preservation of wetlands or historic buildings) that would cause significant environmental impacts if the transfer is not allowed, and/or
   b. A significant public benefit, such as securing a new public facility site (e.g. park, school, library, fire station, police station), will be provided.

(Ord. No. 1964 , § 2(Exh. B) § 17, 11-19-2018)

14.16.340 Transfer of density on-site.

A. Unique or Special Circumstances. Density permitted on a portion of a lot may be transferred and built on another portion of the same lot only in the following unique or special circumstances:

1. To preserve sensitive site resources on a lot in a residential district, provided that there is adequate infrastructure to serve the development and that the development is consistent with design policies and with prevailing densities of adjacent development.
2. To secure public recreation facilities on surplus Dominican College land to serve the Dominican and Montecito neighborhoods.
3. To retain school site public recreation and child care facilities in accordance with priorities in the general plan.
4. To achieve development on downtown lots split by floor area ratio designations which is compatible in scale with surrounding development.

B. Environmental and Design Review Permit Required. Transfer of density on-site shall be reviewed and approved by the planning commission through the environmental and design review permit process.

(Ord. 1625 § 1 (part), 1992).

14.16.350 Reserved.

Editor's note(s)—Exh. A, § 57, of Ord. No. 1882, adopted June 21, 2010, deleted § 14.16.350 which pertained to trip allocations, and derived from Ord. 1663, 1994; and Ord. 1625, 1992.

14.16.360 Wireless communication facilities.

A. Purpose. This section establishes standards to regulate the design and placement of towers, antennas, and other wireless communication transmission and/or reception facilities (hereinafter called wireless communication facilities) on public and private property, including facilities within the public right-of-way to minimize the potential safety and aesthetic impacts on neighboring property owners and the community, and to comply with applicable state and federal laws, including the Federal Telecommunications Act of 1996. This section does not apply to small wireless facilities as defined under Section 14.03.030, which are regulated by Section 14.16.361. To fulfill its purpose, this section is intended to:

1. Establish review and approval requirements, application submittal requirements, and development standards to regulate the design and placement of wireless communication facilities so as to preserve the visual character of the city and to ensure public health and safety, consistent with federal law and Federal Communications Commission (FCC) regulations.

2. Acknowledge the community benefit associated with the provision of wireless communication services within the city.

3. Encourage the joint use of new and existing ground mounted facility monopole/tower sites as a primary option rather than construction of additional single-use towers.

4. Allow the community development director, or delegated staff, to make certain determinations under the provisions of this section.

B. Zoning Review Required.

1. Ministerial Review. A staff level ministerial review shall be required and obtained from the community development director, and no discretionary use permit or environmental design review planning permits shall be required, for the following types of wireless communications facilities to assure compliance with the requirements of subsections G, H, I, J, K, L and M of this section:

   a. Co-located facilities on an existing approved monopole or tower structure (i.e., ground mounted facility) that utilizes or improves stealth design characteristics of the facility, and/or does not substantially increase the visible height or overall dimensions of the structure and/or ground lease area. The alteration or addition shall not significantly change the appearance of the existing facility or its stealth design features, or increase visual height, overall dimensions, or ground lease area by more than ten percent (10%).

   b. Building-mounted facilities, including modification to existing permitted facilities that are architecturally compatible with and entirely integrated into the existing building façade (i.e., stealth design). In general, to be deemed architecturally compatible and entirely integrated with the building façade, the modification shall utilize or improve existing roof-top screening solutions, shall not increase the building height, and shall be flush with and designed to blend into the existing building walls or facades.

   c. Ministerial review shall not apply to modifications of monopoles or towers, new building additions, extensions, projections, etc. made to existing facilities which the community development director determines would increase the visual impacts of the facility. This shall include extensions to height of a facility that exceeds the height limits of the base zoning district. In such instances, an environmental and design review permit shall be required for the stealth design modifications pursuant to the provisions of Chapter 14.25.

2. Discretionary Review. A zoning administrator level use permit and an environmental and design review permit shall be required for the following wireless communication facilities pursuant to the

requirements of Chapter 14.22, Use Permits, and Chapter 14.25, Environmental and Design Review Permits, consistent with the provisions of this section:

a. New ground-mounted facilities (towers and monopoles) or significant additions proposed to existing facilities that would increase its visual height, overall dimensions and/or lease area (e.g., more than ten-percent increase in the existing permitted height, overall dimension, lease area); and

b. Any facility which in conjunction with existing facilities in the area, exceeds the Federal Communications Commission (FCC) standards for public exposure for radio frequency radiation (RFR) emissions.

c. The community development director may determine that minor modifications to an existing facility shall be subject to an administrative level design review. In general, to be deemed a minor modification, the alteration or addition shall not significantly change the appearance of the existing facility or its stealth design, or increase visual height, overall dimensions, or ground lease area by more than ten percent (10%).

d. The community development director may elevate the project for review and action by the planning commission ~~or refer a project to the design review board for its recommendation~~, as determined necessary to assure that appropriate stealth designs are being proposed to the maximum extent practicable, that the facility location is suitable, that development appropriately responds to its setting, and that the requirements of this section are substantially addressed.

C. Appeals. All discretionary decisions of the community development director, zoning administrator, or the planning commission may be appealed in accordance with the provisions of Chapter 14.28, Appeals.

D. Application Requirements. Applications for a use permit and/or an environmental and design review permit shall be initiated by submitting all of the following information and any revised application materials in the manner prescribed:

1. A completed application form, signed by the property owner or accompanied by a letter of authorization that states the property owner has read and agrees to the filing of the application as well as the specific conditions of application cited on the application form, and accompanied by the required fee. Application procedures and processing timeframes shall be in accordance with state law requirements and the procedural guidelines established by the community development director.

2. Peer Review. Prior to accepting an application as complete, the city may require at its sole discretion that a peer review of the project be conducted by a qualified RF engineering consultant, as deemed necessary to confirm the adequacy of the RFR study and/or the technical design requirements of the facility. The consultant shall be selected by the city and paid for by the project applicant. Peer review is typically required for new ground-mounted monopole or tower facilities, building mounted facilities lacking stealth design, facilities proposed within the less-preferred residential and open space areas, or RFR studies that are deemed to warrant further review.

3. Submittal/Re-submittal Meeting Required. Applications for a wireless antenna facility must be made in person during the community development department, planning division public counter hours. A pre-submittal meeting is encouraged and a re-submittal meeting shall be required. Applications and any subsequent resubmittals that are not made in person and during scheduled times shall not be deemed accepted for filing and will be returned.

4. Pre-application or Conceptual Review. A pre-application and/or conceptual review are strongly recommended prior to submitting formal applications for new ground-mounted monopoles or towers, new building mounted facilities or projects in less-preferred residential and open space areas.

5. Revised applications. Unless waived by the community development director, resubmitted applications that result in a substantially revised facility design, size, height or location such that a new round of completeness review is warranted, shall be required to be withdrawn and a new application shall be filed for the substantially revised project.

6. Extensions of time. Applications deemed incomplete must be resubmitted within 30 days or they shall be deemed automatically withdrawn, unless the applicant has requested a one-time extension in processing time to resubmit, not to exceed 90 days. If the application is deemed automatically withdrawn, a new application shall be required in order to proceed with the project.

7. Six (6) initial sets of materials and plans showing the following information:

    a. Project Description. A complete project description, including the following information on the proposed wireless communication facility:

        i. Number and sizes of antennas and approximate orientation,

        ii. Other technical information regarding transmission equipment such as maximum power output and frequencies,

        iii. Copy of FCC license,

        iv. Heights of proposed facilities,

        v. Equipment enclosure type and size,

        vi. Materials and colors of antennas and any equipment enclosure,

        vii. Description of towers or other structures necessary to support the proposed facilities, and

        viii. Description of lighting, signage and landscaping proposed.

    b. Site Plan(s). A site plan, showing the overall property on which the facility will be placed, and a detail site plan for the project area, as needed for large sites, provided on a twenty-four-inch-by-thirty-six-inch (24" x 36") sheet of paper and an eleven-inch-by-seventeen-inch (11" x 17") reduction, and including the following information:

        i. Vicinity map,

        ii. Parcel lines of the subject parcel,

        iii. Contextual map showing structures on adjacent properties,

        iv. Location and names of adjacent streets and drives proposed to serve as access to the facility,

        v. Topography of the subject parcel and location of any drainages within or adjacent to the site,

        vi. Location of all existing buildings, structures, utilities, parking areas, significant trees and other natural forms, or other features which might affect the proposed use of the property,

        vii. Setbacks of proposed structures and improvements from the property lines,

        viii. Location and height of required cuts and fills for the grading of land and any retaining walls proposed,

        ix. Location of proposed development including all towers, structures, buildings, utility line extensions, driveways or roads, and parking areas,

        x. Schematic drainage and grading plan, and

xi. North arrow, graphic scale, the applicant's name, assessor's parcel number and date prepared.

c. Elevations. Elevations showing all sides of the proposed facility set forth on a twenty-four-inch-by-thirty-six-inch (24" x 36") sheet of paper, and an eleven-inch-by-seventeen-inch (11" x 17") reduction, including the following information:

i. Elevations and sections of the site displaying site topography, proposed facilities including towers, equipment shelter and existing buildings,

ii. Wall, roof, tower and antenna materials,

iii. Fencing, air conditioning units and outdoor lighting, if any,

iv. Rooftop or building features such as vents, chimneys and antennas, and

v. Building or tower height as measured from natural grade.

d. Photo-Simulations. Photo-simulations of the proposed facility from key public viewpoints based upon consultation with city staff. Photo-simulations shall display existing and proposed views in an eleven-inch-by-seventeen-inch (11" x 17"), or larger, format, with the dates shown when the base photo was taken.

e. Landscape Plan. A landscape and irrigation plan, showing all existing and proposed improvements, location of proposed plantings and type of landscape material, for proposed ground-mounted facilities including equipment cabinets.

8. Alternative Site Analysis. An alternative site analysis is required if the proposed facility is:

a. Located within any district other than a commercial or industrial district;

b. Located within fifty feet (50') of a "Less Preferred Location," as defined in subsection (G)(2) of this section (i.e., parks, open space or residential zoning district);

c. Lacking stealth design; or

d. Not co-located with an existing approved facility.

The alternative site analysis shall be presented in a narrative form with supporting maps and other graphics that identify the other site locations considered and rejected in favor of the proposed site. The applicant shall provide supporting reasons why the alternate sites were infeasible and rejected, why co-location or building-mounted location has not been pursued (if applicable), and why the proposed site is superior from a technical or other standpoint to the others considered.

9. Future Co-Location. For new ground-mounted towers or monopoles, a signed statement that the carrier, or its future successors, will cooperate with the city to allow future co-location of antennas at the proposed site if it is approved and that the carrier has reviewed and agrees to comply with all post-approval requirements of this section.

10. Story Poles. Story poles or mock-ups may be required if deemed necessary by the community development director.

11. Radio Frequency Radiation (RFR) Study and FCC Compliance Details. For the sole purpose of verifying compliance with the FCC radio frequency emission standards, an emissions report which measures the predicted and actual levels of electromagnetic field radiation emitted by the proposed facility operating alone and in combination with radiation emitted from other existing or approved facilities that can be detected at the proposed facility site. Radiation measurements shall be based on all proposed (applications filed and pending), approved, and existing facilities operating at maximum power densities and frequencies. The study shall identify the existing and predicted electromagnetic

field radiation in table form, identify any measures required to comply with the FCC standards for predicted exposure levels, provide a summary of the conclusions of the report and provide details for any signage, barriers or similar mitigation that is recommended or required. If mitigation is required, the details for signage, barriers or other physical improvements shall also be included on the project plans prepared for the facility. It is the responsibility of the applicant to determine the location and power of existing facilities.

12. Noise Analysis. A noise analysis for emergency generators or other noise-producing facilities.

Applications accepted as complete. Once an application has been accepted as complete, it shall be promptly scheduled for hearings, and a decision shall be made based upon the quality of the information presented by the applicant.

E. Exemptions. The following types of facilities are exempt from the provisions of this section:

1. Facilities for which zoning permit applications were approved by the city and/or building permits were issued on or prior to the effective date of this section and which remain valid (i.e., not expired) shall be exempt from the review and approval requirements of this section, except for the requirements for validation of proper operation, monitoring, and removal of abandoned facilities, and for proposed modifications to existing facilities which shall remain applicable;

2. Facilities owned and operated by public agencies; and

3. Proposed facilities that would be located entirely within a building and only serve that building.

F. Public Notice. Notice of a public meeting or hearing for a wireless communication facility subject to a use permit and/or environmental and design review permit shall be given in accordance with Chapter 14.29, Public Notice, except that a public notice shall be mailed to all property owners within one thousand feet (1,000') of any proposed facility that includes a tower or monopole. Public hearing and notice shall not be required for minor modifications made to existing facilities that the community development director determines, pursuant to the provisions of Section 14.16.360.B.3, would require only an administrative level environmental and design review permit.

G. General Location Standards. The most desirable location for new wireless communication facilities is co-location on existing facilities or buildings. All wireless communication facilities shall be sited to avoid or minimize land use conflicts in compliance with the following standards:

1. Preferred Locations. The following list of preferred locations for wireless communication facilities is in order of preference from most to least preferred: Industrial, public or quasi-public, commercial and office zoning districts are the preferred locations.

2. Less Preferred Locations. The following less preferred locations are listed in order of preference from most to least preferred: Parks or open space and residential zoning districts.

3. Avoid Residential and Open Space Areas. New monopoles or towers shall not be located within residential, designated open space or conservation areas unless sufficient technical and other information is provided to demonstrate to the satisfaction of the planning commission or zoning administrator that location in such areas is appropriate, subject to the following findings:

a. The location of the proposed facility site is essential to meet the service demands of the carrier and no other alternative co-location, existing development or utility facility site, or type of antenna support structure is feasible. This shall be documented by the applicant providing a list of the locations of preferred technically feasible sites, the good faith efforts and measures taken by the applicant to secure these preferred sites, and the specific reasons why these efforts and measures were unsuccessful.

b. The use of a monopole for the proposed facility by itself or in combination with other existing, approved, and proposed facilities will avoid or minimize adverse effects related to land use compatibility, visual resources and public safety.

4. Avoid Significant Buildings and View Sheds. Wireless communication facilities shall not be located on historically or architecturally significant structures unless visually and architecturally integrated with the structure, and shall not interfere with prominent vistas or significant public view corridors.

H. Design Requirements.

1. Co-Location. All new wireless communication facilities service providers shall co-locate with other existing and/or planned new wireless communication facilities whenever feasible. Service providers are encouraged to co-locate with other existing facilities such as water tanks, and other utility structures where the co-location is found to minimize the overall visual impact of the new facility. Co-location of small wireless facilities on light standards/poles, traffic lights, or other structures located within the public right-of-way shall be subject to requirements of Section 14.16.361.

2. Stealth Design. All wireless communication facilities shall have a stealth design to screen or reduce visual impacts and blend the facility into the existing environment. Examples of stealth design are facade-mounted antennas located within architectural features so they are screened from view, or an antenna design that mimics architectural features so they appear to be architecturally integrated as a part of the building design, or facilities with colors and materials to minimize visibility such as a non-reflective finish in a color compatible with the surrounding area. Stealth tower, monopole or building design should seamlessly integrate with its setting and/or building façade. A seamless integration would include façade mounted facilities that are flush with the existing building wall or window plane and that are finished to match the existing textures and finishes, or a high-quality faux tree or similar monopole/tower design that would match existing surrounding vegetation or site characteristics. ~~Referral to the design review board may be required to confirm whether a particular design solution would clearly integrate into an existing building or site and meet the intent of stealth design.~~

3. Ground-Mounted Facilities. All new ground-mounted wireless communication equipment, antennas, poles, dishes, cabinet structures, towers or other appurtenances shall be:

a. Co-located on existing structures to the extent feasible. Co-location is preferred over new monopoles or other towers erected specifically to support wireless communication facilities unless technical evidence demonstrates that there are no other alternative sites or feasible support structures or the use of a monopole or tower would avoid or minimize adverse effects related to the view shed, land use compatibility, visual resources and public safety.

b. Sited to be screened by existing development, topography or vegetation to the extent consistent with proper operation of the wireless communication facility. Additional new, irrigated vegetation, or other screening, may be required as a condition of approval.

c. Designed using high-quality techniques to minimum surrounding vegetation or features in order to blend into the site to the maximum extent practicable.

4. Roof and Building-Mounted Facilities. Roof and building-mounted antennas and equipment shall be:

a. Sited and designed to appear as an integral part of the structure or otherwise minimize their appearance. Placing roof-mounted antennas in direct line with significant view corridors shall be avoided. Where appropriate, construction of a rooftop parapet wall to hide the facility may be required.

b. Integrated architecturally with the design, color, materials and character of the structure or otherwise made as unobtrusive as possible. If possible, antennas shall be located entirely within an existing or newly-created architectural feature (e.g., cupolas, dormers, chimneys or steeples)

so as to be completely screened from view. To the extent feasible, building-mounted antennas shall not be located on the front, or most prominent facade of a structure, and shall be located above the pedestrian line-of-sight.

c. Whenever possible, base stations, equipment cabinets, back-up generators, and other equipment associated with building-mounted antennas shall be installed within the existing building or underground. If this is not feasible, the equipment shall be painted, screened, fenced, landscaped or otherwise treated architecturally to minimize its appearance from off-site locations and to visually blend with the surrounding natural and built environment.

5. Signage. No advertising signage or identifying logos shall be displayed on any wireless communication facility except for small identification plates used for emergency notification and legally required hazard warnings.

6. Waiver Request. A waiver from these requirements may be requested if the applicant can show, by substantial evidence, that compliance with a particular requirement is technologically infeasible or would result in an unreasonable interference with signal quality. The applicant will be required to prove that there are no feasible alternatives to the waiver request. A waiver request may be subject to peer review conducted by a qualified RF engineering consultant selected by the city and paid for by the project applicant.

I. Development Standards.

1. Height. The maximum height of building-mounted antennas shall be in compliance with the height limitations for the zoning district in which they are located. An exception to antenna height may be granted by the planning commission or zoning administrator if the RFR exposures and aesthetic quality of the proposed facility are found to be acceptable. Antenna structures, including towers and monopoles, and mechanical screening features related to wireless communication facilities, shall be regulated subject to Section 14.16.120 of this chapter.

2. Setbacks.

a. Towers, guy wires, and accessory structures, including equipment cabinets, shall comply with the setback requirements of the applicable zoning district. Towers and support structures shall be located a minimum of two hundred feet (200') or at least three (3) times the height of the tower, whichever is greater, from existing residential units or vacant residentially zoned property.

b. Building-mounted facilities may be permitted to extend up to two feet (2') horizontally beyond the edge of the structure regardless of setback requirements through the application review process, provided that the antenna does not encroach over an adjoining parcel or public right-of-way or otherwise create a safety hazard.

J. Lighting. Any exterior lighting shall be manually operated, low wattage, and used only during night maintenance or emergencies, unless otherwise required by applicable federal law or FCC rules. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.

K. Landscaping. Wireless communication facilities shall be installed in a manner that maintains and enhances existing vegetation and provides new landscape material to screen proposed facilities through the following measures:

1. The emphasis of the landscape design shall be to visually screen the proposed facility and stabilize soils on sloping sites. Introduced vegetation shall be native, drought tolerant species compatible with the predominant natural setting of the adjacent area.

2. Existing trees and other screening vegetation in the vicinity of the proposed facility shall be protected from damage both during and after construction. Submission of a tree protection plan prepared by a certified arborist may be required.

3. All vegetation disturbed during project construction shall be replanted with compatible vegetation and soils disturbed by development shall be reseeded to control erosion.

4. Appropriate provisions for irrigation and maintenance shall be identified in the landscape plan. The city may impose a requirement for a landscape maintenance agreement as a condition of approval.

L. Noise. Wireless communication facilities shall be constructed and operated in a manner that minimizes noise. Noise reduction shall be accomplished through the following measures:

1. Wireless communication facilities shall operate in compliance with the noise exposure standards in San Rafael Municipal Code Chapter 8.13, Noise.

2. Normal testing and maintenance activities shall occur between eight a.m. (8:00 a.m.) and six p.m. (6:00 p.m.), Monday through Friday, excluding emergency repairs.

3. Backup generators shall comply with the same noise standards referenced in subsection (L)(1) of this section and shall only be operated during power outages, emergency occurrences, or for testing and maintenance.

M. Radio Frequency Radiation (RFR).

1. RFR Standards. Wireless communication facilities operating alone and in conjunction with other telecommunication facilities shall not produce RFR in excess of the standards for permissible human exposure as adopted by the FCC.

2. RFR Report. Applications for wireless communication facilities shall include a RFR report, prepared by a qualified expert, which identifies the predicted and actual (if available) levels of RFR emitted by the proposed facility operating by itself and in combination with other existing or approved facilities which can be measured at the proposed facility site. Measurements for RFR shall be based on all proposed, approved, and existing facilities operating at maximum power densities and frequencies.

N. Post-Approval Requirements.

1. Validation of Proper Operation. Within forty-five (45) days of commencement of operations, the applicant for the wireless communication facility shall provide the community development department with a report, prepared by a qualified expert, indicating that the actual RFR levels of the operating facility, measured at the property line or nearest point of public access and in the direction of maximum radiation from each antenna, is in compliance with the standards established by the FCC for RFR.

2. Five-Year Review. The owner or operator of a wireless communications facility shall participate in the measurement by the city of the RFR of the facility, which shall be conducted on a five (5) year cycle. The requirement for a five-year review shall be made a condition of approval for all wireless communication facilities. The city will contract to perform the testing with a qualified expert and the owners or operators shall bear the proportionate cost of testing for its facility. The city will establish procedures for:

a. Scheduling the five-year review period;

b. Hiring an expert to perform RFR testing;

c. Collecting reasonable fees; and

d. Enforcement actions for nonpayment of fees.

3. Notification of Abandonment of Use. The owner or operator of an approved wireless communication facility shall remove any abandoned facilities or restore the existing approved use of a facility within ninety (90) days of termination of use.

4. Changes Affecting RFR. Any operational or technological changes to an approved wireless communication facility affecting RFR exposures shall be reported promptly to the city, including any change of ownership. The city may require new RFR testing within forty-five (45) days of notification.

5. Changes to FCC Standards. Owner or operators of all approved wireless communication facilities shall make necessary changes or upgrades to their facilities in order to comply with any newly adopted FCC standards for RFR. Upgrades to facilities shall be made no later than ninety (90) days after notification of the changed FCC standards and the owner or operator shall notify the city in writing that the upgrades have been completed.

6. Co-Location and Facility Upgrade Agreement. Owners or operators of all approved wireless communications facilities shall agree to make their facility available for co-location with other carriers. Modifications to the facility design shall be allowed to accommodate additional carriers on a site, as well as to restore, replace, or upgrade any screening that is deemed obsolete and removed as a result of modifications made to the primary site structure, or concurrent with any upgrades proposed to the subject facility.

7. Owners or operators of all approved wireless communications facilities shall be responsible for maintaining the effectiveness of screening of its facilities, in compliance with project approvals. This shall include pursuing modifications of existing approvals, as necessary, should changes be made to the site or primary structure that would reduce the effectiveness of screening provided for the facility.

O. Definitions.

1. "Ground mounted facility" means a monopole, tower or any structure built for the sole or primary purpose of supporting FCC-licensed wireless communications facility antenna and their associated facilities. Wireless antenna facilities and equipment that are mounted onto an existing structure, including existing utility poles, on private property shall be considered building mounted co-located on an existing structure. Mounting of wireless facilities on light standards/poles, traffic lights, or utility poles within the public right-of-way shall be governed by Section 14.16.361.

2. "Base station" consists of "radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics.

3. "Lease area" means the defined area on the ground or on a building in which wireless facility equipment is placed and/or enclosed.

(Ord. 1823 § 1 (Exh. A) (part), 2004).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1967 , §§ 3—5, 12-17-2018)

14.16.361 Small wireless facilities.

Notwithstanding any other provision of this title as provided herein, all small wireless facilities as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, are subject to a permit as specified in the San Rafael city council's "Policies, procedures, standards and limitations for submittal and review of small wireless facilities within the public right-of-way as set forth in the San Rafael Municipal Code Section 14.16.361" ("policy"), as adopted and amended from time to time by city council resolution, and all small wireless facilities shall comply with such policy. If the city council policy is repealed, an application for a small wireless facility shall be processed pursuant to Section 14.16.360.

(Ord. No. 1967 , § 6, 12-17-2018)

14.16.370 Water-efficient landscape.

A. Purpose and Authority. Effective January 1, 2011, certain new construction and rehabilitation projects that include landscape and irrigation improvements are required to comply with water-efficient landscape requirements and to monitor water usage for irrigation, as mandated under California Government Code Section 65595(c). For the purpose of administering this state mandate, the City of San Rafael hereby adopts by reference, the Marin Municipal Water District (MMWD) Ordinance (Water Conservation), as adopted and periodically amended, and designates MMWD, the local water provider, to implement, enforce, and monitor the requirements of this ordinance. For projects that are subject to the water-efficient landscape requirements, the city defers to MMWD to administer the provisions of this chapter, which include:

1. The application and monitoring of a "maximum applied water allowance," that is established for applicable projects.
2. The review of required landscape and irrigation plans, specifications and supportive documents prepared for applicable projects for compliance with water-efficient landscape restrictions, including limitations on the type and amount of landscape materials and plant species.
3. The review, inspection and approval of landscape and irrigation that is installed for applicable projects to ensure compliance with the approved landscape and irrigation plans and specifications.
4. The post-installation monitoring of water usage for irrigation by applicable projects.

B. Applicability. The provisions of this section and the MMWD Ordinance as adopted and periodically amended are applicable to the following projects:

1. Any project that proposes new or rehabilitated landscapes which are developer-installed in single-family residential and all other residential developments, regardless of size, where the proposed landscape area is equal to or greater than two thousand five hundred (2,500) square feet;
2. Any project that proposes new or rehabilitated landscapes which are homeowner provided and/or homeowner-hired in single-family residential, two-family residential and multiple-family residential developments, where the proposed landscape area is equal to or greater than five thousand (5,000) square feet;
3. Any new nonresidential construction projects exceeding one thousand (1,000) square feet of landscaped area;
4. Any project that proposes new or rehabilitated landscapes which are developer-installed in nonresidential developments where the proposed landscape area is equal to or greater than two thousand five hundred (2,500) square feet.

C. City Review of Applicable Projects. City review of applicable projects shall be processed as follows:

1. Projects Requiring Approval of an Environmental and Design Review Permit. When an applicable project is subject to an environmental and design review permit pursuant to chapter 14.25 of this title, the landscape and irrigation plans required by and submitted with this permit application shall be designed and prepared to comply with the provisions and requirements of MMWD Ordinance as adopted and periodically amended. The approval of an environmental and design review permit shall be conditioned to require the applicant to provide written verification of plan approval from MMWD prior to the issuance of a building permit and/or grading permit.
2. Projects Requiring a Building Permit and/or Grading Permit only. When an applicable project is not subject to an environmental and design review permit but is required to secure a building permit

and/or grading permit, such permits shall not be issued until the applicant has secured, in writing, MMWD approval of the landscape and irrigation plans confirming compliance with MMWD Ordinance as adopted and periodically amended.

D. Inspections and Post-Installation Monitoring and Enforcement. MMWD shall be responsible for:

1. Inspecting and approving all landscape and irrigation installed for applicable projects prior to project completion and/or occupancy; and

2. Monitoring water usage for installed landscapes to ensure compliance with MMWD Ordinance as adopted with amendments. All enforcement actions for ordinance noncompliance or violations shall be administered by MMWD.

(Ord. No. 1882, Exh. A, § 58, 6-21-2010; Ord. No. 1892, § 1, 2-22-2011; Ord. No. 1923, § 2(Exh. A), 6-16-2014)

Chapter 14.17 PERFORMANCE STANDARDS

14.17.010 Specific purposes.

Performance standards provide criteria for issuing administrative use permits and certain other use permits that require minimal discretion and review. (See Chapter 14.21 for additional information on the administrative use permit process.) The performance standards listed in this section are intended to explicitly describe the required location, configuration, design, amenities and operation of specified uses. The performance standards also mitigate potential adverse impacts on the neighborhood and maintain harmonious uses in the area. The performance standards are consistent with the goals and policies of the general plan.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.17.020 Animal keeping.

A. Purposes. Performance standards related to noncommercial animal keeping protect the public health, safety and general welfare by limiting numbers of animals which may be kept, maintaining sanitary and humane conditions for animals, and limiting potential nuisance factors which may result from the keeping of animals.

B. Applicability. Performance standards for the noncommercial keeping of animals, including mammals, birds, reptiles and bees unless specifically exempted by this subsection shall apply throughout the City of San Rafael. (See list of exemptions below.) An administrative use permit shall be required for the keeping of animals within the City of San Rafael. The following animals are exempt from these regulations:

1. Fish;

2. Three (3) or fewer domestic dogs, not including wolf-hybrids, over the age of four (4) months per dwelling unit;

3. Ten (10) or fewer domestic cats over the age of four (4) months per dwelling unit;

4. Any number of domestic dogs, cats or potbellied pigs under the age of four (4) months;

5. Three (3) or fewer potbellied pigs (not including hybrids over seventy (70) pounds);

6. Four (4) or fewer hens (i.e., female domesticated chicken);

7. Ten (10) or fewer of the following:

a. Soft-billed birds (myna, toucan, toucanettes, not including ducks or geese), birds of the Psittacinae family (parrots, parakeets, love birds), doves, pigeons, quail, finches and canaries,

b. Hamsters, guinea pigs, pet mice, pet rats, and pet rabbits, and

c. Nonnative, nonpoisonous snakes, chameleons and iguanas.

8. Beekeeping.

C. Other nonexempt animals are subject to individual case review, and may be subject to the following types of standards:

1. Requirements for identification of animal guardianship, such as tagging or microchipping;

2. Requirements for spaying or neutering of animals;

3. Requirements for fences or fenced stockade areas;

4. Requirements regarding provision of food and water supply, such as supply locations, requirement for closed, rodent-proof containers, etc.;

5. Requirements to secure or sequester animals in shelters during specified hours of the day or night to minimize possible noise impacts;

6. Requirements to maintain sanitary conditions by regular cleanup and disposal of animal feces and urine;

7. Requirement that all places and premises where the animal is to be kept shall be open at all reasonable times and places to the inspection of the code enforcement manager or code enforcement officer, or other code enforcement officials, and the county health officer;

8. Verification of receipt of appropriate California Department of Fish and Game permits;

9. Verification of required vaccinations.

In approving the application for an administrative use permit for the keeping of animals, the community development director may impose additional conditions that are deemed necessary to ensure the permit will be in accordance with the findings required by Section 14.21.080.

D. Findings. In order to grant an administrative permit for the keeping of animals the following findings shall be made:

1. Compliance with Applicable Laws. The keeping of the animal(s) will not violate any provision of the San Rafael Municipal Code or any other applicable provision of law.

2. Humane Treatment of Animals. The keeping of the animal as proposed will not result in an animal receiving inhumane treatment.

3. Odors. The keeping of the animal will not result in obnoxious odors at nearby properties adversely affecting the enjoyment of such property.

4. Flies. The keeping of the animal(s) will not cause or result in flies or other insects adversely affecting the enjoyment of nearby property.

5. Noise. The keeping of the animal(s) will not result in noises which adversely affect the enjoyment of nearby property.

6. Nuisances. The keeping of the animal(s) will not result in other public or private nuisances.

7. Public Health, Sanitation, Safety, Welfare. The keeping of the animal(s) will not result in an adverse effect on the health, sanitation, safety or welfare of an occupant of the premises or other nearby residents.

8. Procreation. The keeping of the animal(s) will not result in procreation which adversely affects nearby properties or the natural habitat.

E. Nonconforming Animal Keeping, Declaration of Public Nuisance. The city council declares to be a public nuisance any lot where animal keeping is operating in a manner that is not in conformance with this section.

(Ord. 1740 §§ 2—5, 1999; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.17.030 Community gardens.

A. Purpose. The purpose of the community gardens regulations is to implement specific policies of the neighborhood design, community design, sustainability, and parks and recreation elements of the San Rafael general plan, which:

1. Support social interaction and create a greater sense of community, encourage gathering places and events in appropriate locations, such as community gardens;

2. Promote efforts to provide places where neighbors can meet each other;

3. In multifamily development, require private outdoor areas and on-site common outdoor spaces. Common spaces may include recreation facilities, gathering spaces, and site amenities;

B. Applicability. Performance standards for community gardens shall apply in the residential, commercial, industrial, public and quasi-public uses, and parks/open space zoning districts with the exception of the downtown zoning districts.

C. Ministerial review required. Except where a use permit is required by the land use tables, a ministerial review is required to determine that the community garden is in compliance with the provisions of this section. If it is determined that the community garden is in full compliance with the provisions of this section, the community garden shall be approved.

D. Standards.

1. Operating Rules. The applicant shall submit a list of operating rules for the proposed community garden. Hours of operation shall be limited from sunrise to sunset.

2. Americans with Disabilities Act (ADA). The project shall be designed to provide access to the general public and be ADA-compliant in accordance with the requirements of Title 24, California Code of Regulations.

3. Parking. On-site parking is required and shall including an area for one van accessible parking space located on site nine feet (9′) × eighteen feet (18′) with an eight-foot (8′) wide accessible aisle meeting ADA standards and a space to accommodate vehicular delivery and removal of materials.

4. Trash and Recycling. Trash and recycling shall be adequately provided on site and the project sponsor is responsible for implementing a trash recycling program, which shall also include the installation of recycling receptacles for garden users on the project site.

5. Green Waste. Green waste facilities shall be provided on site.

6. Material Storage. Identify on the site plan storage for all garden tools, supplies and compost in a secure manner and screened from view from off-site. Compost and other odorous materials shall be stored in a location and manner that does not affect adjacent property owners.

7. Landscaping. Provide a landscape and irrigation plan for review and approval of the planning division and the department of public works which provides trees within the landscape setback along the property frontage with the following detail.

    a. The project landscape architect/designer shall select a tree species that is appropriate to the site and soil conditions. Trees shall be planted at a twenty-four inch (24") box size and spaced at twenty-foot (20') intervals.

    b. All landscaping shall be maintained in good health through the life of the project. Any dying or dead landscaping shall be replaced in a timely fashion and all landscaping shall be maintained in a healthy and thriving condition, free of weeds and debris.

    c. The landscape and irrigation plan must be designed to comply with Marin Municipal Water District (MMWD) Water Conservation Ordinance No. 421.

8. Fences. Fences are allowed subject to the regulations in Chapter 14.16 of the city of San Rafael Municipal Code, Zoning.

9. Lighting. Exterior lighting shall be limited to security lighting as required and approved by the city police department.

10. Signage. A sign plan shall be submitted and shall demonstrate location of the following required signage:

    a. Two signs shall be posted on the subject property.

    b. One sign shall be posted in the common area of the garden noting the name and contact information for the garden management; and

    c. One monument-type address sign, not exceed twenty (20) square feet in area and six (6) feet in height, shall be posted at the garden entrance. The property address numbers shall be posted prominently on the monument sign.

11. MCSTOPP/Drainage and Clean Site Water. The site must be designed and maintained so that runoff of surface water will not drain onto adjacent property. The project engineer shall incorporate features that would provide for clean site waters in accordance with RWQCB and Marin County Stormwater Pollution Prevention Program (MCSTOPPP) standards before they enter the city storm water drainage system. Features can include the installation of grassy swales to connect and filter surface water runoff.

12. The project shall comply with the MMWD backflow prevention requirements. If, upon the district's review of the final plans backflow protection is warranted, compliance shall include installation, testing and maintenance. Questions regarding backflow requirements should be directed to the MMWD backflow prevention program coordinator at (415) 945-1559.

13. Pest Management. The operation of the community garden shall comply with the city's Integrated Pest Management (IPM) program. Signs shall be posted and maintained within the garden area notifying garden users of the rules and consequences for using pesticides and herbicides that are not allowed on the IPM.

(Ord. No. 1964 , § 2(Exh. B) § 18, 11-19-2018)

14.17.040 Animal care facilities.

A. Purpose. Performance standards related to animal care facilities protect the public health, safety and general welfare by minimizing potential nuisance factors that may result from the caring of animals.

B. Applicability. Performance standards for animal care facilities, unless specifically exempted by this subsection shall apply throughout the City of San Rafael. A use permit approved by the zoning administrator, issued pursuant to Chapter 14.22 of this division, shall be required for animal care facilities within the City of San Rafael.

C. Findings. In order to grant a use permit for animal care facilities in an office/commercial district, the following findings shall be made:

1. Compliance with Applicable Laws. The animal care facility will not violate any provision of the San Rafael Municipal Code or any other applicable provision of law. The animal care facility shall maintain an employee handbook outlining best management practices for handling of animals, handling medical waste and disposal of animal waste.

2. Sound Attenuation. The animal care facility shall not result in sound levels that exceed the noise levels established under Chapter 8.13 for any adjacent tenant spaces or properties.

3. Waste. The animal care facility shall include and maintain adequate waste and hazardous waste facilities at all times.

4. Nuisances. The animal care facility will not result in other public or private nuisances.

(Ord. No. 2015 , § 4, 9-6-2022)

14.17.050 Reserved.

Ord. No. 1996 , div. 2(Exh. A, 7.1), adopted August 16, 2021, repealed § 14.17.050, which pertained to offices and financial institutions in the Fourth Street retail core and the West End Village and derived from Ord. 1694 § 1 (Exh. A) (part), 1996: Ord. 1663 § 1 (part), 1994: Ord. 1625 § 1 (part), 1992.

14.17.060 Fortunetelling.

A. Purpose. Performance standards for fortunetelling ensure police department review and background investigations of prospective fortunetelling businesses, consistent with Municipal Code Chapter 8.12. Police department review is required in the interest of public health, safety and welfare due to potential criminal activities, including theft by fraud, deceit, false pretenses, trick or device which may be associated with such businesses.

B. Applicability. Performance standards for fortunetelling shall apply in any district in which fortunetelling is a conditional use. Compliance with performance standards shall be reviewed through the administrative use permit process.

C. Standards.

1. Police Department Permit. Review and approval by the police department is required for any proposed fortunetelling use.

2. Operation. The proposed fortunetelling operation shall conform with all of the provisions of the municipal code pertaining to such uses (Municipal Code Sections 8.12.050 through 8.12.060, inclusive) to the satisfaction of the San Rafael police department.

3. Parking. Fortunetelling uses shall provide parking consistent with Chapter 14.18, Parking Standards. Fortunetelling uses shall be considered equivalent to a personal service use for the purposes of determining parking requirements.

4. Signs. Signs for fortunetelling businesses shall conform with Chapter 14.19, Signs.

(Ord. 1625 § 1 (part), 1992).

14.17.070 Game arcades.

A. Purpose. Standards for game arcades with coin-operated amusement devices ensure that such facilities coexist harmoniously with other uses in the neighborhood in which they are located. Performance standards for game arcades are intended to prevent the occurrence or increase in the incidence of loitering, vandalism, pedestrian obstruction, excessive noise or any other activity that may have an adverse effect on adjacent or nearby properties, residences or businesses.

B. Applicability. Performance standards for game arcades with coin-operated amusement devices shall apply in any district in which game arcades are a conditional use. Compliance with performance standards shall be required and reviewed through the use permit process. Initial use permits shall be granted by the planning commission for periods of no more than six (6) months. The zoning administrator may approve time extensions to the initial use permit.

C. Findings. In approving initial use permits and time extensions for game arcades with coin-operated amusement devices, findings must be made that the use will not or has not created or increased the incidence of loitering, vandalism, pedestrian obstruction, excessive noise or any other activity that may have an adverse effect on adjacent or vicinity properties, residences or businesses.

D. Standards.

1. Proximity to Schools. Game arcades shall not be located within three hundred feet (300') of a public or private grammar, middle or high school.

2. Parking. One vehicular parking space shall be provided for each five (5) coin-operated amusement devices.

3. Bicycle Parking. One (1) on-site bicycle parking space shall be provided for each two (2) coin-operated amusement devices. Bicycle parking shall be in bicycle racks or stands and shall not obstruct required exits. Bicycle parking may be required inside buildings if no acceptable outside area exists on-site. Bicycle parking may be waived for "adults only" establishments.

4. Hours of Operation. Hours of operation shall be established on a case-by-case basis; however, the maximum closing time that may be granted shall be eleven p.m. (11:00 p.m.). The planning commission may grant exceptions to this limitation for "adult only" establishments or when it is demonstrated that the use is clearly ancillary to another use.

5. Initial use permit; Six (6) Month Review Period. Use permits shall be granted for periods of no more than six (6) months initially. The zoning administrator may approve extensions upon demonstration of compliance with these standards.

6. Police Department Review. Police department review and approval is required for any proposed game arcade with coin-operated amusement devices consistent with Chapter 10.40.

(Ord. 1625 § 1 (part), 1992).

14.17.075 Gun shops.

A. Purposes. Performance standards related to gun shops are intended to ensure the public safety by requiring such shops to provide adequate security as well as appropriate hazardous materials storage.

B. Applicability. Performance standards for gun shops apply in all districts where gun shops are allowed. Compliance with performance standards shall be reviewed through the administrative use permit process.

C. Standards.

1. Police Department Review. Security and public safety measures shall be provided to the satisfaction of the police department.

2. Fire Department Review. Appropriate hazardous materials storage measures shall be provided to the satisfaction of the fire department.

3. Compliance with Other Laws. Approval of the requested permit is contingent upon demonstration of compliance with applicable provisions of state and federal laws. All gun shops shall be operated according to state and federal regulations.

4. Location. No gun shop shall be located within three hundred (300) feet of a day care facility, church, or school. The three hundred (300) feet measurement shall be from lot line to lot line.

(Ord. 1748 § 3, 2000; (Ord. 1694 § 1 (Exh. A) (part), 1996).

14.17.080 Mobilehome parks.

A. Purpose. These provisions will promote diverse housing opportunities by encouraging the creation of stable and attractive residential environments within mobilehome parks, and provide for a desirable transition to the surrounding residential areas.

B. Applicability. Standards for mobilehome parks apply in any district in which mobilehome parks are a conditional use, and shall be applied through the use permit process.

C. Standards.

1. Density and Development Standards. Mobilehome parks shall conform with all density and development standards of the general plan and zoning district in which it is located, as well as with applicable provisions of the California Health and Safety Code and the regulations set forth in Title 25, Chapter 5 of the California Administrative Code. The yard and setback standards of the district shall apply to the perimeter property line of the lot or lots of record, taken as a whole, on which a mobilehome park is proposed.

2. Mobilehome Lot Identification. Each lot line shall be permanently marked consistent with the Title 25, Chapter 2 of the Mobilehome Parks Act. Consistent with the requirements of Title 25, adjustment of a lot line may be permitted after obtaining written authorization of the occupant(s) of the affected mobilehome lot(s) and upon approval of a minor environmental and design review permit.

3. Setbacks. A manufactured home and all accessory structures shall be located in compliance with the Mobilehome Parks Act setback and separation requirements.

4. Storage. In order to provide adequate storage for large items, such as boats, campers, and park maintenance vehicles, a minimum of one hundred (100) square feet of screened parking area shall be provided.

5. Usable Outdoor Area. A usable outdoor area shall be provided consistent with the requirement of the zoning district in which it is located.

6. Parking. Parking shall be provided as required in Chapter 14.18, Parking Standards.

7. Environmental and Design Review. A mobilehome park is a major physical improvement subject to Chapter 14.25, Environmental and Design Review Permits).

8. Landscaping. Landscaping shall be provided consistent with the requirement of the zoning district in which it is located.

9. Lighting. Park lighting shall be provided consistent with the requirements of the Mobilehome Parks Act.

10. Utilities. All utilities shall be underground.

(Ord. 1625 § 1 (part), 1992).

14.17.090 Motor vehicle repair uses (major or minor).

A. Purpose. Standards for motor vehicle repair uses mitigate potential noise, fumes, litter and parking problems associated with motor vehicle repair facilities. The standards ensure that motor vehicle repair uses operate harmoniously and are compatible with adjacent and surrounding uses. In addition to these standards, motor vehicle repair uses must meet applicable federal, state and local regulations regarding storage, recycling and disposal of hazardous wastes.

B. Applicability. Performance standards for major or minor motor vehicle repair uses shall apply in any district in which a motor vehicle repair use is a conditional use. Performance standards for motor vehicle repair uses shall be administered through a use permit or an administrative use permit process as specified in the land use regulations for commercial districts (Chapter 14.05) and for industrial districts (Chapter 14.06).

C. Standards.

1. Spraying. All spraying operations are to be conducted within a spray booth which has been approved by the city fire marshall.

2. Location of Repair Work. All repair work shall take place entirely within the building.

3. Vehicle Storage.

a. All vehicles which are visually damaged, disabled or visually in the process of repair shall be stored and/or worked upon in a location on-site that is not visible from off-site. Vehicles not visually damaged, waiting to be repaired or waiting to be picked up after repair, shall be stored on-site but may be visible from off-site; or, in lieu of said on-site parking, alternate parking of appropriate size and within five hundred feet (500') may be substituted provided that at the time a business license is issued or renewed, a lease for said parking concurrent with the term of the business license is submitted.

b. Where non-administrative use permits are required, parking lot screening and landscape standards (Section 14.18.160) shall be used as guidelines in project review.

4. Outside Storage. There shall be no outside storage of materials or equipment unless screened from view in a manner approved by the planning director.

5. Parking. Parking for motor vehicle repair uses shall be consistent with Chapter 14.18, Parking Standards.

6. Waste Disposal. Waste oils and other materials shall be disposed of properly and not discharged into the storm drain or sewer system.

(Ord. 1625 § 1 (part), 1992).

14.17.100 Residential uses in commercial districts.

A. Purpose. The purpose of this section is to ensure that residential uses in commercial districts are not adversely impacted by adjacent uses. Residential uses are encouraged in commercial zoning districts, including the downtown mixed use (DMU) district, and in mixed-use development to meet local housing needs and because of the environment they create. However, potential traffic noise and safety impacts related to commercial uses may impact nearby residential uses. The proximity of residential and commercial

uses require that special regulations be imposed in the interest of businesses and the residents of the housing units.

B. Applicability. Performance standards for residential uses in commercial districts shall be applied through an administrative use permit in the GC, FBWC, C/O, M and NC districts.

C. Standards.

1. Location. Location of residential units in the GC, FBWC, HO, C/O, M and NC districts shall be determined through project review.

2. Access. Residential units shall have a separate and secured entrance and exit.

3. Parking. Residential parking shall comply with Chapter 14.18, Parking Standards, of this title.

4. Noise. Residential units shall meet the residential noise standards in Section 14.16.260, Noise standards, of this title.

5. Lighting. All exterior lighting shall be sufficient to establish a sense of well-being to the pedestrian and one (1) that is sufficient to facilitate recognition of persons at a reasonable distance. Type and placement of lighting shall be to the satisfaction of the police department. The minimum of one (1) foot-candle at ground level shall be provided in all exterior doorways and vehicle parking areas.

6. Refuse Storage and Location. An adequate refuse storage area shall be provided for the residential use.

7. Location of new residential units shall consider existing surrounding uses in order to minimize impacts from existing uses.

8. Boarding House. A boarding house shall comply with the following requirements:

   a. Provision of a management plan to ensure twenty-four (24) hour on-site management, security and any necessary social services;

   b. Provision of usable outdoor area consistent with the requirements of the district in which it is located.

9. Live/Work Quarters. The purpose of live/work quarters is to allow residential use in a commercial district with the intent of permitting people to live in a work environment. Live/work quarters are subject to the following requirements:

   a. Residents of live/work quarters are required to acknowledge, as part of their lease agreement, the commercial nature of the surrounding area.

   b. The FAR standards for the district shall establish the permitted intensity.

   c. The parking requirement shall be based on the number of spaces required for the nonresidential square footage, or as determined by parking study.

   d. All living areas must be suitable for residential purposes, as determined by the building inspector.

   e. At least one of the residents of a live/work quarters shall be required to have a city business license.

   f. The site is free of hazardous materials, as determined by the fire department.

(Ord. 1838 § 40, 2005; Ord. 1831 § 1 (part), 2004; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 59, 60, 6-21-2010; Ord. No. 1964 , § 2(Exh. B) § 19, 11-19-2018; Ord. No. 1996 , div. 2(Exh. A, 7.2), 8-16-2021)

14.17.110 Outdoor eating areas proposed in conjunction with food service establishments.

A. Purpose. The purpose of this section is to promote outdoor seating in conjunction with food service establishments to enhance the pedestrian ambiance of the city. Performance standards ensure that outdoor seating for restaurants and cafes does not adversely impact adjacent properties and surrounding neighborhoods.

B. Applicability. Performance standards for outdoor eating areas proposed in conjunction with restaurants or other food service establishments shall apply in any zoning district where food service establishments are permitted uses (as of right or by conditional use permit). Compliance with performance standards for outdoor eating areas shall be reviewed through an administrative use permit and administrative environmental and design review permit process for any existing food service establishment. In cases where the restaurant or food service establishment is being proposed as a new use and is subject to a conditional use permit in the zoning district is which it is located, the performance standards shall be incorporated into the required use permit. Notwithstanding the foregoing, any outdoor eating area located on city sidewalks or rights-of-way shall not be subject to the administrative use permit or use permit process, but shall be regulated as provided in Section 14.16.277.

C. Standards.

1. Property Development Standards. The outdoor eating area shall comply with the property development standards for the zoning district in which it is to be located.

2. Accessory Use. The outdoor eating area shall be conducted as an accessory use to a legally established restaurant or food service establishment.

3. Intensification of Use. The proposed area for outdoor eating shall not exceed twenty-five percent (25%) of the indoor seating area.

4. Parking. Parking shall be provided for all permanently covered outdoor seating areas located outside of the downtown parking assessment district in accordance with parking standards in Section 14.18.040 (Parking requirements).

5. Barriers. If perimeter barriers are proposed around the outdoor eating area, approvals from the community development and public works departments shall be required. Perimeter barriers shall be temporary/movable fixtures unless the sidewalk has been expanded to accommodate an outdoor eating area. In areas where the sidewalk has been expanded, a permanent barrier and/or structure can be considered subject to terms and conditions of a license or lease agreement. If a barrier is bolted to a public sidewalk and is subsequently removed, the sidewalk shall be repaired subject to the review and approval of the public works director.

6. Sunshades. Retractable awnings and umbrellas may be used in conjunction with an outdoor eating area, but there shall be no permanent roof, or shelter over the sidewalk cafe area unless the sidewalk has been previously expanded to accommodate an outdoor eating area. Any awning, umbrella, permanent roof or shelter shall be adequately secured, and shall comply with the provisions of the Uniform Building Code.

7. Fixtures. The furnishings of the interior of the outdoor eating area shall consist only of movable tables, chairs and umbrellas. Movable plant pots or planter boxes are also permitted. Lighting fixtures may be permanently affixed onto the exterior of the principal building, but shall be shielded from adjacent uses.

8. Refuse Storage Area. No refuse structure enclosure or receptacle shall be erected or placed on a public sidewalk or right-of-way.

9. Maintenance. The sidewalk inside the outdoor eating area, the adjacent areas outside of the eating area, and all appurtenances related thereto, shall be steam cleaned or pressure washed on a quarterly basis, and shall be otherwise maintained at all times in good repair and in a clean and attractive condition as determined by the community development director.

10. Hours of Operation. The hours of operation of the outdoor eating area may be limited depending on surrounding uses.

(Ord. 1751 §§ 4, 5, 2000: Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 61, 6-21-2010)

14.17.120 Outdoor storage.

Outdoor storage may be permitted where the incidental storage of equipment and materials would be appropriate and related to a primary use or ongoing business operation. Such activities would typically be associated with industrial and light industrial storage yards or utility yard uses, and commercial contractor or commercial building supply uses.

A. The following standards shall apply to the establishment of outdoor storage uses on non-residential properties, where such activities are listed as a conditionally permitted use in the land use tables of the underlying district.

1. Outdoor storage uses shall be screened from public view with fencing, enclosure, structure and/or landscaping as appropriate and necessary for the underlying zoning district, to provide a buffer between adjacent uses, and to screen the use from public view.

2. Outdoor storage shall not be placed within required yard setbacks, landscape or parking areas required for the use or site.

3. Outdoor storage may also be subject to design review, as required by Chapter 14.25.

B. An "outdoor storage" land use is not permitted within a residential district. Temporary placement of moving or storage containers or debris boxes on a residential property, within a driveway or required yard area, may be allowed for a limited duration, generally not to exceed ninety (90) days, or as otherwise provided under the terms of a building permit issued for the site.

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.17.130 Temporary uses.

A. Purpose. Standards for temporary uses allow the short term placement (generally one (1) year or less) of activities on privately or publicly owned property with appropriate regulations so that such activities will be compatible with surrounding areas.

B. Applicability. Performance standards for specified temporary uses shall apply in any district where a temporary use is a conditional use. Performance standards for temporary uses shall be administered through an administrative use permit in all commercial, office and industrial zoning districts, or a use permit (zoning administrator) in the R/O and 5/M R/O districts or any PD district (with or without an approved or valid development plan). The following temporary uses are subject to performance standards:

1. Outdoor seasonal product sales, including Christmas tree lots and pumpkin sales lots, for periods not exceeding thirty (30) consecutive calendar days;

2. Trailers/mobilehomes that provide residences for security personnel associated with any construction site;

3. Trailers/mobilehomes that provide offices for the following temporary uses:

   a. Temporary or seasonal businesses such as carnivals or Christmas tree sales,

   b. Business offices or sales facilities where construction of a permanent facility is being diligently completed,

   c. Construction offices where construction is being diligently completed,

   d. Real estate offices on-site of a proposed subdivision until such time as the notice of completion is filed with the building inspection division,

   e. Financial or public utilities that are required to maintain a place of business at a location at which no permanent structure suitable for the purpose is available;

4. Fairs, festivals, concerts, farmer's markets, swap meets or other special events when not held within premises designed to accommodate such events, such as auditoriums, stadiums or other public assembly facilities;

5. Similar temporary uses which, in the opinion of the community development director, are compatible with the district and surrounding land uses.

Temporary uses may be subject to additional permits, other city department approvals, licenses and inspections as required by applicable laws or regulations. Temporary uses which may have specific regulations specified in the municipal code include such uses as: meetings, assemblies and parades in public places (Chapter 5.70) and Carnivals, Circuses (Chapter 10.44).

C. Exemptions.

1. Events which occur in theaters, meeting halls or other permanent public assembly facilities;

2. Carnivals, fairs, bazaars or special events held on school premises or at religious institutions;

3. Special events less than seventy-two (72) hours and sponsored by the San Rafael business improvement district;

4. Events which receive street closure approval from the city council.

5. Recycling or "e-waste" collection events conducted or sponsored by a public agency for the purpose of collecting non-recyclable items such as electronics, paint or other materials and preclude deposit of such items into the sanitary landfill, when located on a developed non-residential property for a maximum duration of three (3) consecutive days and no more than two (2) times annually (calendar year).

D. Findings.

1. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

2. The proposed site is adequate in size and shape to accommodate the temporary use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the site.

3. The proposed site is adequately served by streets having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably generate.

4. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the community development director.

In approving the application for an administrative permit for a temporary use, the community development director may impose conditions that are deemed necessary to ensure the permit will be in accordance with the required findings and standards.

E. Standards. The applicant shall provide information to show that the following standards have been satisfactorily addressed:

1. Temporary Parking Facilities. Appropriate traffic control measures and adequate temporary parking facilities, including vehicular ingress and egress, shall be provided to the satisfaction of the city public works department and the police department.

2. Nuisance Factors. Measures to control or mitigate potential nuisance factors such as glare or direct illumination of adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat shall be provided to the satisfaction of the community development department, planning division.

3. Site Issues. The placement, height and size of temporary buildings, structures and equipment shall be reviewed by the community development department, planning division for consistency with base district regulations and other zoning ordinance requirements.

4. Sanitary/Medical Facilities. Sanitary and medical facilities shall be provided to the satisfaction of the county health department.

5. Trash/Litter Control. Adequate measures shall be taken for the collection, storage and removal of garbage, litter or debris from the site to the satisfaction of the community development department, planning division.

6. Signs. Any proposed signage for the temporary use shall comply with Chapter 14.19, Signs, to the satisfaction of the community development department, planning division.

7. Hours of Operation. The use shall be limited in terms of operating hours and days to ensure compatibility with surrounding uses and neighborhood to the satisfaction of the community development department, planning division.

8. Performance Bonds. A performance bond or other security deposit shall be submitted to the city finance department to assure that any temporary facilities are removed from the site within a reasonable timeframe following the event and that the property is cleaned up and restored to its former condition.

9. Public Safety. Security and public safety measures shall be provided, including traffic control measures if needed, to the satisfaction of the police department.

10. Compliance With Other Laws. Approval of the requested temporary permit is contingent upon compliance with applicable provisions of other laws. Any event which includes the preparation, sale or serving of food shall comply with Marin County Health Department standards and permit requirements.

11. Other. Other conditions may be required as needed to ensure the proposed temporary use is managed and operated in an orderly and efficient manner and in accordance with the intent and purpose of this section.

(Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 62, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014)

Chapter 14.18 PARKING STANDARDS

14.18.010 Specific purposes.

In addition to the general purposes listed in Section 14.01.030, the specific purposes of parking regulations are to:

A. Promote the safety and convenience of all land use and circulation systems within the city by providing standards and policies for the creation and maintenance of vehicular off-street parking and loading;

B. Promote more efficient street systems by reducing to a minimum the congestion which may be created by uncontrolled parking;

C. Promote the continued health and vitality of all land uses by providing reasonable satisfaction for normal parking demands;

D. Promote compatibility among adjacent land uses and enhance the appearance of the city through appropriate design and aesthetic standards related to parking;

E. Ensure that off-street parking and loading facilities are provided for new land uses and for major alterations and enlargements of existing uses in proportion to the need for such facilities created by each use;

F. Establish parking standards for commercial and industrial uses consistent with need and with the feasibility of providing parking on specific commercial and industrial sites;

G. Ensure that off-street parking and loading facilities are designed in a manner that will ensure efficiency, protect the public safety and, where appropriate, insulate surrounding land uses from adverse impacts;

H. Acknowledge the unique conditions in the downtown mixed use district, where there are a variety of land uses and parking facilities, including a downtown parking district.

(Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1964 , § 2(Exh. B) § 20, 11-19-2018; Ord. No. 1996 , div. 2(Exh. A, 8.1), 8-16-2021)

14.18.020 Applicability.

A. Off-street parking, loading and bicycle facilities shall be provided for any new building constructed and for any new use established, for any addition or enlargement of an existing building or use, and for any change in the occupancy of a building or the manner in which the use is conducted that would result in additional spaces being required, subject to the provisions of this chapter.

B. Provisions of this chapter shall apply uniformly throughout the city according to specific land usage and shall be without regard to zoning district classification.

C. Parking areas may be reconfigured in compliance with the provisions of this chapter only.

D. The provisions of this chapter are applicable to properties with the downtown mixed use district except for provisions specific to: 1) parking requirements; 2) the downtown parking district; and 3) parking lot screening and landscape standards. For these parking provisions, refer to the Downtown San Rafael Precise Plan Form-Based Code, which adopted by separate ordinance and incorporated herein by reference.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, § 64, 6-21-2010; Ord. No. 1996 , div. 2(Exh. A, 8.2), 8-16-2021)

14.18.030 Computation.

If, in the application of the requirements of this chapter, a fractional number is obtained, one (1) parking space or loading berth shall be required for a fraction of one-half (½) or more, and no space or berth shall be required for a fraction of less than one-half (½).

(Ord. 1625 § 1 (part), 1992).

14.18.040 Parking requirements.

A. Off-street parking shall be provided in accord with the following chart. Where the specific use in question is not listed, the community development director shall determine if another similar use exists which may be used to select an appropriate parking standard. In order to make this determination, the community development director may require the submission of survey data from the applicant or collected by the community development department, planning division at the applicant's expense. Parking surveys conducted for this purpose shall be subject to the review and recommendation by the department of public works.

B. Parking Modification. The parking requirement for any specific use listed may be modified so as to provide adequate parking which is fair, equitable, logical and consistent with the intent of this chapter. Such modification may also include reduction in parking ratios for businesses in the downtown zoning districts that allow the use of private parking facilities to be used for public parking during evening or weekend hours. Parking modifications shall require an application for a use permit and shall be subject to review by the community development director and public works director, and approval by the zoning administrator.

C. For properties located within the downtown mixed use district and Downtown parking district, refer to the Downtown San Rafael Precise Plan Form-Based Code for off-street parking standards, which is adopted by separate ordinance and incorporated herein by reference.

D. In addition to the off-street parking requirements listed below, off-street loading and unloading shall be provided for certain uses in accord with Section 14.18.050, Off-street loading and unloading.

E. Off-street parking is not required for FAR increases up to ten percent (10%) of the building or seven hundred fifty (750) square feet, whichever is larger, as granted under Section 14.16.150(G)(1)(b).

F. Operation. As specified in the Downtown San Rafael Precise Plan Form-Based Code adopted by separate ordinance, parking in the downtown mixed use district may be operated to serve the uses for which the parking was approved, or may be shared with other uses in the downtown mixed use zoning district, and/or be made available to the public, subject to a use permit for parking modifications.

Table 14.18.040

Use Classification	Off-Street Parking Required	Additional Standards
Residential		See Section 14.16.282.C.2. for parking requirements for SB 9 Housing Developments
Single-family residential	2 covered spaces per unit.	
Single-family residential, hillside	On streets less than 26 feet wide, a minimum of two additional on-site parking spaces shall be provided (not on the driveway apron) per unit. These spaces should be conveniently placed relative to the dwelling	

	unit which they serve. This requirement may be waived or reduced by the hearing body when the size or shape of the lot or the need for excessive grading or tree removal make the requirement infeasible.	
Studios (multifamily unit)	1 covered space per unit.	
Studio (duplex unit), 500 sq. ft. or less in size	1 space per unit	See Section 14.16.282.C.2 for parking requirements for SB 9 Housing Developments
Studio (duplex unit), Greater than 500 sq. ft.	1.5 spaces per unit (including 1 covered space).	
1 bedroom unit	1.5 spaces per unit (including 1 covered space).	
Two-bedroom units	2 spaces (1 covered)	
Three or more bedroom units	2 spaces per unit (including 1 covered space).	
Guest parking, multifamily	1 space per 5 units.	
Mobilehome parks	2 covered spaces per unit.	
Senior housing projects	.75 space per unit, or as specified by use permit.	
Emergency shelters for the homeless, permanent:		
Residential district	1 space for each employee on maximum staffed shift plus 1 space per five beds:	
1—5 beds	1 space plus staff parking.	
6—10 beds	2 spaces plus staff parking.	
11—15 beds	3 spaces plus staff parking.	
Commercial and light industrial/office districts	1 space for each employee on maximum staffed shift plus 1 space per 10 beds:	
1—10 beds	1 space plus staff parking.	
11—20 beds	2 spaces plus staff parking.	
21—30 beds	3 spaces plus staff parking.	
Emergency shelters for the homeless, temporary or rotating	As specified by use permit.	
Emergency shelters serving children and/or families with children	1 space per family based on maximum program capacity plus 1 space per employee on the maximum staffed shift.	
Residential care facilities for the non-handicapped:		
Small (0—6 clients)	See single-family residential.	
Large (6—10 clients)	1 space for each five clients plus 1 space for each staff person, visiting doctor or employee on maximum staffed shift.	
Rooming or boarding houses	1 space for each guest room or as determined by parking study.	
Accessory dwelling unit (ADU):	See Section 14.16.285	
Visitor accommodations		

Bed and breakfast inns	2 spaces plus 1 space per bedroom.	
Hotels or motels	1 space per sleeping room plus 1 space for manager plus 1 space for every 2 employees.	
Hotels, convention or hotels with banquet, restaurant or meeting facilities, etc.	Parking in addition to the hotel requirement is required, as determined by a parking study. Parking requirement as specified in use permit.	
Day care		
Family day care home (small)	No requirement.	
Family day care home (large)	Minimum 2 spaces. The required parking for the dwelling unit shall count as the required parking for family day care.	
Day care center	1 space per five children. In addition, one of the following must be provided as recommended by the public works director for safety purposes: 1) A posted "loading zone" for dropping-off and picking-up children; 2) A loop driveway with an apron for drop-offs and pick-ups.	
General commercial uses		
Retail sales (non-bulky items)	1 space per 250 gross building sq. ft.	
Retail sales (bulky items, such as machinery, furniture, vehicles, etc.)	1 space per 400 gross building sq. ft.	
Shopping centers	1 space per 250 gross building sq. ft.	
Animal care facilities	1 space per 300 gross building sq. ft.	
Food and beverage service establishments, excluding fast food restaurants	1 space for each 50 sq. ft. of floor area intended for public use.	
Fast food restaurants	1 space per 100 sq. ft. for 50 percent of the gross building sq. ft.; and one space per 65 sq. ft. for 50 percent of the gross building sq. ft. or one space per 2.5 interior seats, whichever is greater.	
Funeral and interment services	1 per each 35 sq. ft. of floor area for assembly rooms plus 1 space for each employee, plus 1 space for each car owned by such establishment.	
Motor vehicle sales and service:		
Coin-op washing	1 space at each washing stall and vacuum stall.	
Gasoline stations	3 spaces per station, plus.	
With minor repairs such as tune-ups, brakes, batteries, tires, mufflers	2 spaces per service bay.	
With mini-market area	1 space per 250 sq. ft. of gross retail.	
Rentals	1 space per 500 gross sq. ft. of floor area plus 1 space per 1,000 sq. ft. of outdoor rental storage area.	

Repairs, major and/or minor	1 space per 500 sq. ft. or 3 spaces per service bay (each service bay may count as one of the parking spaces), whichever is greater.	
Sales, new or used vehicles	1 space per 400 gross building sq. ft. excluding auto repair area; plus, for repair portions of the building: 1 space per 500 gross building sq. ft., or 3 spaces per service bay for automobile repair (each service bay may count as one of the parking spaces), whichever is greater, or 1 space per 2,000 sq. ft. open lot area, whichever is greater.	
Music rehearsal/recording studios	1 space per 500 gross building sq. ft.	
Personal service establishments	1 space per 250 gross building sq. ft.	
Barber/beauty shop/nail salon	2 spaces per chair or workstation.	
Dry cleaning establishment	2 spaces plus 1 space for each employee.	
Laundry (self service)	1 space for each 2 washing machines and/or dry cleaning machines.	
Recreation facilities (indoors)		
Bowling alleys	4 spaces for each bowling lane plus additional spaces for other uses.	
Game arcades	1 space for each 5 coin-operated amusement devices.	
Health clubs and gymnasiums	1 space per 250 sq. ft. of gross building sq. ft.	
Poolhalls/billiards	2 spaces for each table or as determined through a parking study.	
Theaters	Parking study required. Parking subject to the approval of the community development director or the hearing review body for the development.	
Offices and related uses		
Financial services and institutions	1 space for each 200 sq. ft. gross building sq. ft.	
Medical services:		
Clinics	1 space per 225 gross building sq. ft.	
Hospitals	Parking study required.	
Major medical facilities, including extended care facilities	Parking study required.	
Offices, excluding mental health practitioners	1 space per 225 gross building sq. ft.	
Offices, mental health practitioners	1 space per 250 gross building sq. ft.	
Administrative, business and professional offices	1 space per 250 gross building sq. ft.	

Industrial		
Industrial uses	1 space per 500 gross building sq. ft.	
Light industrial/office mixed-use:		
Light industrial sq. ft. of building	1 space per 500 gross building sq. ft.	
Office sq. ft. of building	1 space per 250 gross building sq. ft.	
Mini-storage	Parking study required. Subject to approval by the community development director or hearing review body for the development	
Public utility facilities	Parking study required. Subject to approval by the community development director or hearing review body for the development.	
Storage, warehousing and distribution	1 space per 500 gross building sq. ft.	
Wholesale and distribution	1 space per 500 sq. ft. gross building sq. ft.	
Cannabis testing/lab, cannabis infused products, cannabis delivery and cannabis distribution	1 space per 500 gross building sq. ft.	
Marinas	3 spaces for every 4 boat slips. Plus parking for support uses in the marina, such as restaurants or retail uses.	
Public/quasi-public uses		
Libraries, museums and other cultural facilities	Parking study required. Subject to approval by the community development director or hearing review body for the development.	
Public service and utility	Parking study required. Subject to approval by the community development director or hearing review body for the development.	
Religious institutions	1 space per 4 seats.	
Schools (Note: The following are guidelines for public schools)		
Parochial, private		
K—8	3 spaces per classroom or 1 space per 100 sq. ft. of auditorium space, whichever is greater.	
9—12	1 space for each 4 students based on maximum school capacity, or as specified by use permit.	
Vocational, business trade schools	1 space per 150 gross building sq. ft.	
Performing arts or other	1 space per 250 gross building sq. ft.	
Transportation facilities		
Bus stations, park and ride facilities, public transit stations	Parking study required. Subject to approval by the community development director or hearing review body for the development.	

(Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 65, 66, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1955 , (Exh. A, § 11), 3-19-2018; Ord. No. 1964 , § 2(Exh. B) §§ 21—23, 11-19-2018; Ord. No. 1996 , div. 2(Exh. A, 8.3), 8-16-2021; Ord. No. 2002 , div. 13, 12-6-2021; Ord. No. 2013 , § 4, 8-1-2022)

14.18.045 Designated parking for clean air vehicles.

A. Applicability. Parking spaces serving new nonresidential buildings shall be designated for any combination of low-emitting, fuel-efficient, and carpool/van pool vehicles, as defined by Section 5.102 of the California Green Building Standards Code, California Code of Regulations, Part 11 of Title 24.

B. Number of Short-Term Spaces Required. Parking spaces for clean air vehicles shall be provided in accord with the following chart:

Total Number of Parking Spaces	Number of Required Clean Air Vehicle Spaces
0—9	0
10—25	1
26—50	3
51—75	6
76—100	8
101—150	11
151—200	16
201 and over	At least 8% of total

C. Parking Stall Marking. The following characters shall be painted, using the same paint for stall striping, such that the lower edge of the last word aligns with the end of the stall striping and is visible beneath a parked vehicle: "CLEAN AIR VEHICLE".

D. Prewiring for Electric Vehicle Charging Stations. In new or substantially renovated parking facilities of twenty-five (25) or more spaces electrical conduit capable of supporting suitable wiring for an electric vehicle charging station shall be installed between an electrical service panel and an area of clean air vehicle parking spaces as required by this section. The conduit shall be capped and labeled for potential future use.

(Ord. No. 1892, § 2, 2-22-2011; Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.18.050 Off-street loading and unloading.

The minimum off-street loading and unloading space required for specific uses shall be as follows:

A. Retail and service establishments: one off-street loading and unloading space with minimum dimensions of ten feet (10’) in width by thirty-five feet (35’) in length, with a fourteen-foot (14’) height clearance.

B. Light industrial or mixed-use light industrial/office buildings: one off-street loading and unloading space for each twenty thousand (20,000) square feet of gross building area. Each loading space shall have minimum dimensions of twelve feet (12’) in width by sixty-five feet (65’) in length, with a fourteen-foot (14’) height clearance.

C. Each loading area shall have adequate driveways, turning and maneuvering areas for access and usability, and shall at all times have access to a public street or alley.

D. In the office and industrial/office districts, loading areas shall not be located in required front or street side yards.

E. Off-street loading and unloading spaces shall be adequately screened from view from public rights-of-way to the satisfaction of the planning director.

F. In the downtown mixed use district, on lots less than ten thousand (10,000) square feet, and where a parking lot is provided, the loading area may be incorporated into an aisle or backup area; provided, that there is adequate backup space for required parking spaces as determined by the traffic engineer.

(Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. A, 8.4), 8-16-2021)

14.18.060 Downtown parking district.

The downtown parking district boundaries shall be as defined by the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. Parking for nonresidential uses in the downtown parking district shall be provided consistent with the following:

A. The off-street parking requirement is waived for up to 1.0 FAR of the total square footage of buildings located within the downtown parking district.

B. Off-street parking for building square footage above 1.0 FAR and for all residential uses shall be provided consistent with the parking requirements the Downtown San Rafael Precise Plan Form-Based Code.

(Ord. 1694 § 1 (Exh. A) (part), 1996: Ord. 1625 § 1 (part), 1992).

(Ord. No. 1964 , § 2(Exh. B) § 24, 11-19-2018; Ord. No. 1996 , div. 2(Exh. A, 8.5), 8-16-2021)

Editor's note(s)—Ord. No. 1964 , § 2(Exh. B) § 24, adopted November 19, 2018, amended § 14.18.060 and in so doing changed the title of said section from "Downtown parking assessment district" to "Downtown parking district," as set out herein.

14.18.061 Reserved.

Ord. No. 1996 , div. 2(Exh. A, 8.6), adopted August 16, 2021, repealed § 14.18.061, which pertained to Downtown's West End and environs and derived from Ord. No. 1882, Exh. A, § 67, June 21, 2010.

14.18.070 Parking requirements for multiple uses.

A. Multiple Uses—Basis for Calculation. Where there is more than one use in a single structure or on a site, or two (2) or more separate instances of the same use, off-street parking requirements shall be the sum of the requirements for the various uses. Off-street parking required for one occupant of a structure shall not be considered as satisfying the required parking facilities for another occupant of the structure, unless otherwise provided in this chapter.

B. Changes in Occupancy in Multi-Tenant Buildings. Master use permits filed in accordance with Section 14.22.040, Master use permits, for multi-tenant buildings or sites with multiple uses shall specify the types and allowable amounts of various uses. The total parking provided for the site shall be consistent with

subsection A above. When occupants of a multi-tenant building or a multiple-use site change, the approved mix and amount of land use shall be consistent with the master plan approval to ensure the provision of adequate parking facilities.

(Ord. 1625 § 1 (part), 1992).

14.18.080 Parking requirements for reciprocal uses with shared parking facilities.

When two (2) or more uses share a common parking area and when a significant and complementing variation in period of daily demands occurs (i.e., exclusive day and night uses), the zoning administrator may grant reductions in the total parking required through a use permit; provided, that in no instance shall the total parking required be less than would be required for any one of the independent uses. The zoning administrator shall base a decision to approve or deny a parking reduction on a shared parking demand study prepared by a qualified transportation engineer or other qualified parking professional.

(Ord. 1694 § 1 (Exh. A) (part), 1996: Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 68, 6-21-2010; Ord. No. 1964 , § 2(Exh. B) § 25, 11-19-2018)

14.18.090 Bicycle parking.

A. Applicability. Bicycle parking shall be required for all new nonresidential buildings and in major renovations of nonresidential buildings having thirty (30) or more parking spaces, and for all public/quasi-public uses.

B. Number of Short-Term Spaces Required.

1. Commercial, office, industrial, and multi-family residential uses: five percent (5%) of the requirement for automobile parking spaces, with a minimum of one two-bike capacity rack.

2. Public/quasi-public uses: as determined by parking study, or as specified by use permit.

3. Exempt uses: animal sales and service; motor vehicle sales and services; building materials and supplies (large-item); catering establishments; funeral and interment services; temporary uses; recycling facilities; other uses as determined by the planning director.

C. Number of Long-Term Spaces Required.

1. For nonresidential buildings with over ten (10) tenant-occupants: Five percent (5%) of the requirement for automobile parking spaces, with a minimum of one space.

D. Reduction of Vehicle Parking. Properties that provide bicycle parking in excess of the bicycle parking spaces identified in Section 14.18.090.B. and/or C. may qualify for a reduction to the overall vehicle parking requirements subject to the approval of a use permit for parking modification.

E. Design.

1. Short-Term Parking: Bike racks shall be provided with each bicycle parking space. The rack shall consist of a stationary object to which the user can lock the bike.

2. Long-Term Parking: Acceptable parking facilities include:

a. Covered, lockable enclosures with permanently anchored racks for bicycles,

b. Lockable bicycle room with permanently anchored racks, or

c. Lockable, permanently anchored bicycle lockers.

3. Parking facilities shall support bicycles in a stable position.

4. The facilities shall provide at least an eighteen inch (18”) clearance from the centerline of adjacent bicycles on the left and right, and at least ten inches (10”) to walls or other obstructions.

5. An aisle or other space shall be provided to bicycles to enter and leave the facility. This aisle shall have a width of at least five feet (5’) to the front or rear of a standard six-foot (6’) bicycle parked in a facility.

6. Bicycle parking should be situated at least as conveniently to building entrances as the most convenient car parking area, but a minimum distance of one hundred feet (100’) of a visitors' entrance. Bicycle and auto parking areas shall be separated by a physical barrier or sufficient distance to protect parked bicycles from damage by cars.

7. Bicycle parking facilities should be located in highly visible, well-lit areas to minimize theft and vandalism.

8. Overhead coverage or rain shelters for bicycle parking facilities are encouraged.

9. The planning director (or the planning director's designated appointee) shall have the authority to review the design of all bicycle parking facilities required by this title with respect to safety, security and convenience.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1892, § 3, 2-22-2011; Ord. No. 1964 , § 2(Exh. B) § 26, 11-19-2018)

14.18.100 Parking space dimensions.

A. Standard size parking spaces shall be nine feet (9') by nineteen feet (19') in dimension, except that in downtown, the standard size parking space shall be eight and one-half feet (8.5') by eighteen feet (18') in dimension.

B. Compact parking spaces shall be eight feet (8’) by sixteen feet (16’) in dimension.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 69, 6-21-2010)

14.18.110 Compact spaces—Allowable percentage.

A. Allowable Percentage. A maximum thirty percent (30%) of the required parking spaces may be compact spaces for facilities exceeding five (5) spaces.

B. Spaces Labeled. Compact spaces shall be labeled in parking facilities as compact spaces to the satisfaction of the city traffic engineer.

C. Distribution. Compact spaces should be distributed throughout the parking lot to the extent feasible.

(Ord. 1625 § 1 (part), 1992).

14.18.120 Tandem parking prohibition.

Tandem parking is prohibited, unless approved under this section:

A. Under Section 14.18.150, Alternate parking locations for uses with insufficient parking;

B. With an environmental and design review permit under the Hillside Residential Design Guidelines Manual;

C. For an accessory dwelling unit, as provided for in Section 14.16.285 of this title; or

D. As a concession granted for residential projects which include sufficient affordable housing units, as provided for in Section 14.16.030(H)(3)(a)(i) of this title.

E. Within the downtown mixed use district, when the tandem parking spaces are assigned to a single residential unit or where the tandem spaces are assigned to a single tenant subject to exception permit as outlined under Section 14.24.020.G.3.

F. As part of a mechanical or automated parking system.

(Ord. 1838 § 41, 2005; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1964 , § 2(Exh. B) § 27, 11-19-2018; Ord. No. 1996 , div. 2(Exh. A, 8.7), 8-16-2021)

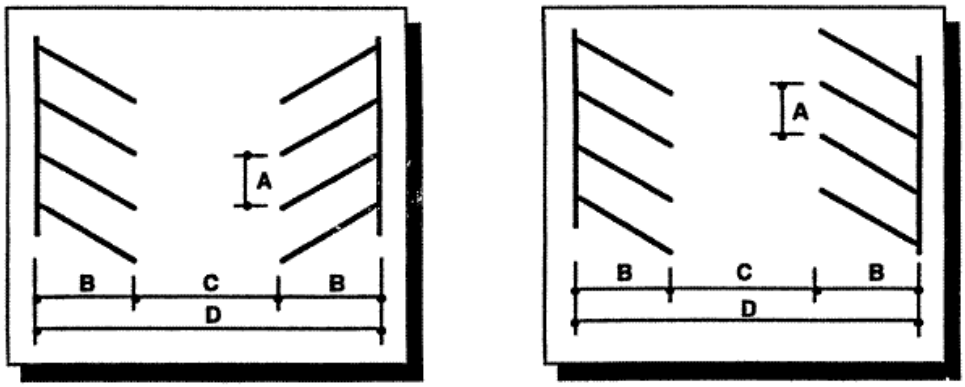
14.18.130 Parking facility dimensions and design.

A. Minimum Standards.

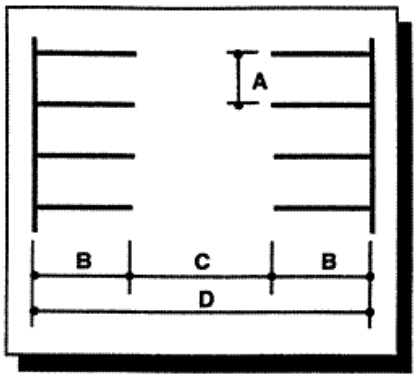
1. The following shows the minimum dimensions for aisle widths and parking spaces for parking facilities. Where the configuration and/or layout angle for proposed parking differs from those shown, the dimensions shall be prorated and adjusted accordingly, as approved by the city traffic engineer.

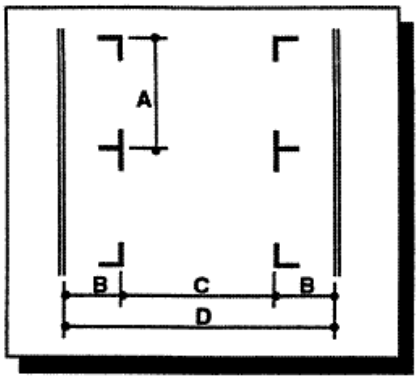
2. Aisle widths and parking space dimensions in excess of the minimum standards may be required on the recommendation from the city traffic engineer, city engineer or fire department where indicated by traffic, grade or site conditions. An exception to the minimum aisle widths may be granted, subject to Section 14.24.020(F), Parking.

Illustration A for Section 14.18.130



60° ONE WAY					60° TWO WAY			
A	B	C	D	DIMENSION	A	B	C	D
STANDARD								
10′-6″	18′-0″	20′-0″	56′-0″	City-wide	10′-6″	18′-0″	24′-0″	60′-0″
*	*	*	*	Downtown	*	*	*	*
9′-3″	15′-0″	20′-0″	NA	COMPACT	9′-3″	15′-0″	24′-0″	NA





90° TWO WAY					ONE WAY PARALLEL			
A	B	C	D	DIMENSION	A	B	C	D
STANDARD								
9′-0″	19′-0″	26′-0″	64′-0″	City-wide	22′-0″	9′-0″	12′-6″	30′-6″
8′-6″	18′-0″	26′-0″	62′	Downtown	*	8′-6″	*	*
8′-0″	16′-0″	26′-0″	NA	COMPACT	20′-0″	8′-0″	12′-6″	NA

* As approved by the Traffic Engineer.

B. Parking Spaces for the Handicapped. All parking facilities shall comply with state requirements regarding parking for the disabled, as per state Chapter 71 of the Uniform Building Code, Site Development Requirements for Handicapped Accessibility.

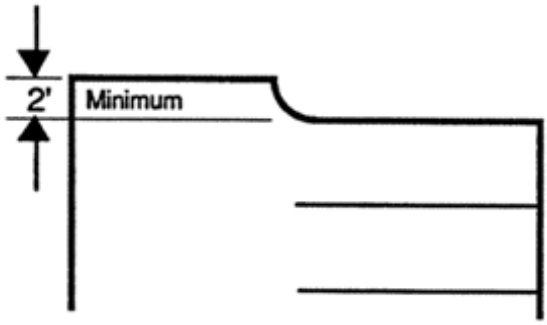
C. Double Line Striping. Delineation of parking stalls by double line striping is encouraged, and may be required by the city traffic engineer based on site conditions, such as "high turnover" utilization or restricted maneuvering space.

D. Tree Wells. Tree wells shall have a minimum area of thirty-six (36) square feet and a minimum interior width of six feet (6'), exclusive of curbs. See Section 14.18.160, Parking lot screening and landscaping for additional landscape design standards.

E. Curb Overhang. A minimum of two feet (2′) shall be allowed for overhang at curblines. Where overhangs are provided, the minimum stall depth (dimension "B") may be reduced by two feet (2′). Wherever "parking overhang" encroaches into sidewalk areas, the sidewalks shall be a minimum of six feet (6′) in width. In landscaped areas, ground cover and irrigation systems should not be placed within the overhang areas.

F. Parking Stall Access. Use of a required parking space shall not require more than two (2) vehicle maneuvers. At the end of a parking facility with four (4) or more parking spaces, an aisle or driveway providing access to the end parking space shall extend at least two feet (2′) beyond the required width of the parking space in order to provide adequate on-site area for turnaround purposes.

Illustration B for Section 14.18.130



TYPICAL END STALL TREATMENT

(Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 70, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.18.140 Access to public right-of-way.

A. Driveway Widths. The minimum curb cut for driveways at the face of the curb shall have the following minimum inside depressed width.

1. Serving a residential use:

6 or fewer spaces:	10 feet
7 to 24 spaces:	12 feet (1-way) or 20 feet (2-way)
25 or more spaces:	12 feet (1-way) 24 feet (2-way)

2. Serving a nonresidential use:

6 or fewer spaces:	12 feet
7 to 24 spaces:	12 feet (1-way) or 20 feet (2-way)
25 or more spaces:	15 feet (1-way) or 26 feet (2-way)

The zoning administrator, planning commission or city council may, on the basis of a recommendation from the city traffic engineer, city engineer or fire department, require driveways in excess of the above widths where needed by traffic, grade or site conditions. They may also require driveways to be constructed with full curb returns and handicapped ramps as opposed to simple curb depression.

B. Separation Distance of Driveways Serving the Same Parking Facility. Driveways serving the same parking facility shall be located at least twenty-five feet (25') apart.

C. Driveway Grades. Driveway grades shall be subject to review and determination by the city engineer. Maximum driveway grade typically allowed is eighteen percent (18%).

D. Encroachment Permit Required. An encroachment permit is required from the public works department for work done in the public right-of-way. (Note: See Chapter 11.04 of the municipal code).

(Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

14.18.150 Alternate parking locations for uses with insufficient parking.

To reduce existing on-street parking congestion where dwelling units were legally built with fewer than the currently required number of parking spaces, additional on-site parking for vehicles belonging to the residents of such developments shall be permitted as follows.

A. The zoning administrator, by environmental and design review permit, may approve, for single-family or duplex units, the location, including tandem parking, of additional parking spaces in the front or street side yards, providing that the following findings can be made:

   1. Additional on-site parking is not used as the basis for increasing the number of residential units;

   2. Such parking will not create hazards by obstructing views to or from adjoining sidewalks and streets;

   3. Fifty percent (50%) of the front and street side yards are landscaped.

B. The zoning administrator, by environmental and design review permit, may approve, for multifamily development, additional on-site parking in patterns or locations that do not meet current standards, providing that the following findings can be made:

   1. Such parking will not create a hazard or nuisance to the neighborhood or adjoining neighbors;

   2. Such parking is likely to be used;

   3. Such parking will reduce existing on-street parking congestion;

   4. Needed on-site recreation facilities are not adversely affected.

(Ord. 1625 § 1 (part), 1992).

14.18.160 Parking lot screening and landscaping.

New or substantially renovated parking lots with more than five (5) spaces shall provide landscaping in accordance with the following standards. Substantially renovated parking lots shall be those for which paving material and curbing is removed and the resulting lot is reconfigured. With the exception of sub-sections F, G, H, I, and J below, the provisions of this section do not apply to properties within the downtown mixed use district. The Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance includes provisions and requirements for parking lot screening and landscaping.

The following provisions shall also be used as guidelines for parking lot improvements on remodel projects.

A. Screening. Parking areas visible from the public right-of-way shall be screened to headlight height through the use of landscaped earth berms, low walls, fences, hedges, or combination thereof, with trees and plantings, or similar means. Fences, walls, and hedges need not be solid.

B. Minimum Trees. A minimum of one (1) canopy tree shall be provided for every four (4) parking spaces. Trees shall be distributed throughout the parking area to shade cars and paved areas. Clustering of trees may be considered subject to approval of the decision-making body, where it is demonstrated that the intent will be met to provide ample shading and screening of parking areas and enhance the visual appearance of parking lots. In downtown, this section does not apply to parking lots for twenty (20) or fewer cars, and the standards in this section may be reduced for parking lots for twenty-one (21) to forty (40) cars, ~~subject to recommendation by the design review board and~~ with the approval of a minor design review permit.

C. Tree Selection and Distribution. Parking lot trees shall be selected and located to achieve maximum shading of paved surfaces, through utilization of the following techniques:

1. Distribute trees uniformly throughout parking areas, incorporating use of regularly spaced finger islands (see illustration below) and landscape medians between parking rows to the extent practicable.

2. Cluster trees on southerly and westerly perimeters of parking lots.

3. Provide minimum tree canopy diameters of fifteen feet (15') and include tree species with large canopy diameters, e.g., greater than thirty feet (30').

4. Increase tree planting ratios as necessary to provide equivalent canopy coverage of the site where less than half of the required trees are proposed as large canopy tree species.

D. Minimum Size of Planting Areas and Tree Wells. Planting areas containing trees and tree wells shall have a minimum area of thirty-six (36) square feet and a minimum interior width of six feet (6'), exclusive of curbs. For large canopy tree species, tree wells shall have a minimum area of sixty-four (64) square feet and a minimum width of eight feet (8') exclusive of curbs, to the extent this larger planting area is practicable and can be accommodated on-site.

E. Curbs and Wheel Stops. A maximum overhang of two feet (2') shall be allowed for overhang of vehicles into planting areas. All planters and sidewalks located adjacent to driveways, loading areas, or parking lots shall be protected along the parking lot side with concrete curbs or wheel stops. Alternative treatments may be considered, subject to the approval of the community development director (or the director's designated appointee) or the appropriate hearing review body.

F. Irrigation. Permanent, automatic irrigation systems shall be provided for all planted areas, in compliance with Section 14.16.370 Water-Efficient Landscape.

G. Soil Preparation and Verification. Planting areas and tree wells shall be prepared by excavation to a minimum depth of three feet (3'), scarifying sides of tree wells (to promote soils integration, water absorption and healthy root growth), amendment of soil (as recommended based on soils analysis), and compaction to no more than seventy-five percent (75%) within twelve inches (12") of a curb or sidewalk. For parking lots containing twenty-five (25) spaces or more a licensed landscape architect shall monitor tree well excavation, soil preparation and tree planting and provide written verification to the community development director that excavation, soil preparation and tree planting have complied with the standards established by this subsection to promote normal healthy tree growth. Such written verification shall be received by the community development director prior to use of the parking facility and/or occupancy of the use.

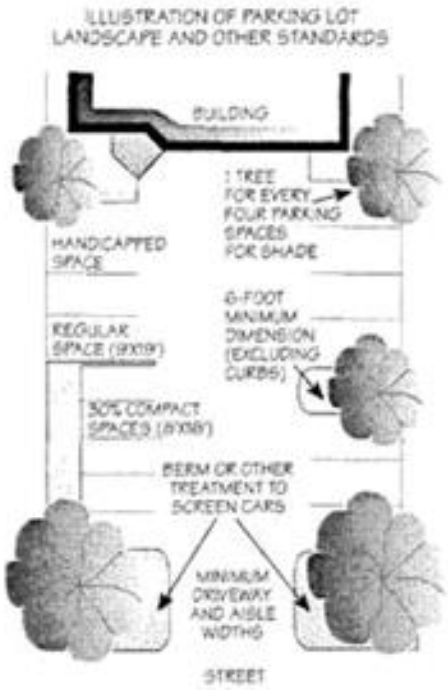
H. Maintenance. Landscaped areas associated with parking lots shall at all times be maintained in a healthy and clean condition, with replanting as necessary to maintain compliance with the previously approved landscape plan. For parking lots containing twenty-five (25) spaces or more the property owner shall obtain a minimum one (1) year maintenance contract and warranty for tree growth and provide documentation of such to the community development director prior to use of the parking facility and/or building or site occupancy.

I. Parking Structures. The top level of parking structures shall utilize light-colored/high albedo paving material (reflectance of at least 0.3), or utilize shade structures, photovoltaic carports, landscaped trellises, or trees to achieve at least fifty percent (50%) daytime shading.

J. Bio-filtration. Persons owning or operating a parking lot, gas station, area of pavement or similar facility developed with hardscape surfaces shall undertake all practicable measures to minimize discharge of pollutants to the city storm drain, in compliance with city standards, including utilization of all best management practices and the requirements of San Rafael Municipal Code Title 9.30 (Urban Runoff) enforced by the department of public works. To facilitate compliance with city storm drain pollution discharge requirements, innovative landscape design concepts may be substituted for the above standards subject to the approval of the appropriate review body, including use of permeable

pavers, bio-swales, at grade curbs and openings in curbs to allow filtration of runoff through landscape areas. Landscape plans and alternative measures shall subject to compliance with any recommendations of the department of public works.

Illustration 14.18.160



(Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1996 , div. 2(Exh. A, 8.8), 8-16-2021)

14.18.170 Lighting.

Lights provided to illuminate any parking facility or paved area shall be designed to reflect away from residential use and motorists. It is the intent to maintain light standards in a low profile design, as well as to be compatible to the architectural design and landscape plan. Light fixtures (e.g., pole and wall-mount) should be selected and spaced to minimize conflicts with tree placement and growth. (See Section 14.16.227 for additional standards on foot-candle intensity).

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.18.180 Residential districts—Garage and carport standards.

A. Single-Car Garages. The minimum interior dimensions of single-car garages shall be ten feet (10′) by twenty feet (20′).

B. Double-car Garages. The minimum interior dimensions of double-car garages shall be twenty feet (20′) by twenty feet (20′).

C. Single-car Carports. The minimum interior dimensions of single-car carports shall be nine feet (9′) by nineteen feet (19′).

D. Double-car Carports. The minimum interior dimensions of double-car carports shall be eighteen feet (18′) by nineteen feet (19′).

(Ord. 1625 § 1 (part), 1992).

14.18.190 Recreational vehicle parking in residential districts.

In any of the following locations, parking of recreational vehicles, camper shells, trailers, boats and other similar equipment, when parked or stored incidental to the basic residential use of the property, is permitted for loading, unloading and storage purposes providing it does not obstruct the view of pedestrians and vehicles on the adjacent sidewalk and/or street and does not otherwise constitute a nuisance.

A. For Single-Family and Duplex Residential Units. Recreational vehicle parking is permitted:

1. Within the garage, carport or parking space required by the zone in which the use is located; or

2. In the front yard setback when on the driveway to the garage, carport or parking spaces required by the zone; or

3. In the front yard setback between the existing driveway and the side property line when the distance between the two is no greater than twelve feet (12′) at any point; or

4. In rear yards, interior side yards or other areas not defined as "yards," providing the unit is partially or fully screened as viewed from off-street by a solid fence that conforms to the permitted height limits, vegetation, structures or topography;

5. Recreational vehicles shall be parked in an orderly manner, generally perpendicular to the street. Parking parallel to the front property line is prohibited;

6. No part of the recreational vehicle shall extend over the public sidewalk or right-of-way;

7. The parking space and connecting driveway shall be surfaced with gravel, concrete, asphalt or similar materials.

B. For Multifamily Residential Units (Three (3) or More Units Whether Constructed as Apartments, Townhouses or Condominiums) and Mobilehome Parks. Recreational vehicle parking is permitted in areas that are designed and constructed for such purposes under permits approved by the planning commission.

(Ord. 1163 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

14.18.200 Location of parking and maneuvering areas.

Parking or maneuvering areas, excluding access driveways, shall be prohibited in all required yard areas in the medium- and high-density residential districts.

(Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

14.18.210 Commercial parking in MR and HR districts.

Public or private parking lots for automobiles may be permitted in a medium-density or high-density residential district adjacent to any nonresidential district, providing a use permit and environmental and design review permit are first obtained in each case.

(Ord. 1625 § 1 (part), 1992).

14.18.220 On-site and remote parking.

A. All off-street parking and loading areas required herein shall be located on the same lot and readily accessible to the specified use, provided that if the strict application of this requirement creates undue hardship and in the opinion of the planning director creates conditions contrary to desirable development practices but all other areas of intent for this chapter are complied with, remote parking areas which satisfy all or part of specific parking requirements may be approved.

B. Remote parking areas shall be located within thirteen hundred feet (1,300') of the specified use and shall possess direct and convenient pedestrian access. Remote areas may serve more than one use, provided that the gross number of spaces available shall not be less than the combined requirements for all uses served.

C. Requests for remote, off-site parking shall require an application for a use permit and shall be subject to a review and recommendations by the community development director and traffic engineer, and approval by the zoning administrator. Upon zoning administrator approval of any remote, off-site parking area, and prior to occupancy of the proposed use, which parking satisfies the parking requirements, the owner of the lot (proposed for remote parking site) shall execute and record a declaration of restriction, legally binding or similar instrument satisfactory to the community development director, to restrict the use of the lot to public and private parking of vehicles so long as the use conducted by applicant, or the applicant's successors in interest, on the original site shall require the furnishing of parking facilities under the terms of the use permit.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 71, 6-21-2010; Ord. No. 1964 , § 2(Exh. B) § 28, 11-19-2018)

14.18.230 Parking spaces—In lieu payments.

Where practical difficulty is involved in meeting the off-street parking requirements for a building hereafter constructed, the requirement may be met wholly or in part by in-lieu payments where the owner of the building site offers (in writing) to make, and the city council agrees to accept, such payments. When such an offer is made, the planning commission shall investigate and report to the city council its findings as to the reasons which are alleged to make such substitution necessary. The city council may accept or reject the proposal for substitution, and if it finds the substitution necessary, shall determine the amount of payment to be made. The payment shall equal the fair market value of the land which would otherwise have been devoted to off-street parking, plus the cost of paving and other improvements as determined by the city engineer. All moneys collected shall be used for the purchase and improvement of off-street parking facilities. Each of such facilities shall be so located as to serve primarily the general area and class of zoning district from which the respective in-lieu payments are derived.

(Ord. 1625 § 1 (part), 1992).

14.18.240 Grandfathered parking.

A. No use of land lawfully existing on the effective date of the ordinance codified in this title shall be considered nonconforming solely because of the lack of off-street parking, loading or bicycle facilities prescribed in this chapter.

B. The number of existing required parking spaces may be reduced to achieve compliance with state or federal disabled access requirements. In such instances, properties shall not be considered nonconforming solely because of the lack of off-street parking prescribed by this chapter.

C. The number of required spaces within an existing parking lot approved or established prior to adoption of this section (i.e., June 16, 2012) may be reduced in order to achieve greater conformity with the city urban runoff pollution prevention standards contained in San Rafael Municipal Chapter 9.30, as required by the department of public works, and/or the parking lot landscape regulations contained in Section 14.18.160, provided that the property owner can demonstrate to the satisfaction of the public works department and/or community development director that sufficient parking and vehicle maneuvering will remain to support the intended use(s) of the subject property. In such instances, properties shall not be considered nonconforming solely because of the lack of off-street parking prescribed by this chapter.

D. For additions or enlargements of any existing building or use, or any change of occupancy or manner of operation that would increase the number of parking, loading or bicycle spaces required, additional parking shall be required for such addition, enlargement or change. Where parking for an existing use is substandard, improvements to improve or upgrade the parking may also be required where feasible.

E. A nonconforming structure which has been damaged or destroyed more than seventy-five percent (75%) and which is rebuilt to its original condition must provide parking equivalent to prior existing parking. Where parking was substandard, improvements to improve or upgrade the parking may also be required where feasible.

F. Determination of the amount of parking improvements required to upgrade or improve existing substandard parking conditions shall be made by the community development director or the appropriate hearing review body. Such determination shall consider the size of the proposed addition in relation to the existing development, off-site parking conditions and site constraints.

(Ord. 1838 § 42, 2005: Ord. 1625 § 1 (part), 1992).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014)

14.18.250 Permanence of off-street parking.

A. Once any off-street parking or loading space has been provided, which wholly or partially meets the requirements of this title, such off-street parking or loading space shall not thereafter be reduced, eliminated or made unusable in any manner which renders the on-site parking inadequate for the building and/or uses in existence on or created after the adoption of the ordinance codified in this title. Covered parking shall not be converted to uncovered parking.

B. Accessory off-street parking or loading facilities which are located on the same lot as the building or use served, and which were in existence on the effective date of the ordinance codified in this title, or were provided voluntarily after such effective date, shall not hereafter be reduced below, or if already less than, shall not further be reduced below, the requirements of this title for a similar building or use.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.19 SIGNS

14.19.010 Purpose.

The provisions of this chapter shall regulate the location, size, type and number of signs permitted within the city of San Rafael. The purpose of this chapter shall be:

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 of the city as a place to live and work;

D. To encourage sound signage practices as a means to aid existing and new businesses and provide information to the public;

E. To ensure the preservation of freedom of speech;

F. To preserve and promote traffic safety;

G. To protect the public health, safety and general welfare of the community at large.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.020 Applicability and interpretation.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.021 Compliance as of effective date of this chapter.

The provisions of this chapter shall apply to all signs posted, installed, erected, constructed, or a change of sign copy on or following the effective date of this chapter.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.022 Applicability to sign content.

The provisions of this chapter do not regulate the message content of signs or sign copy, regardless of whether the message content is commercial or noncommercial. In each instance and under the same conditions to which this chapter permits any sign, a sign containing an ideological, political, or other noncommercial message and constructed to the same physical dimensions and character shall be permitted. For purposes of this chapter, a "commercial" message or sign is any message or sign which directs attention to commercial activity including a business, commodity, service, attraction or entertainment; and a "noncommercial" message or sign is one, which is determined not to be a commercial message or sign as defined herein.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.023 Compliance with applicable ordinances, regulations and laws.

All signs posted, erected or constructed on or following the effective date of this chapter shall comply with all other applicable laws, regulations, provisions and conditions required by the other titles of the San Rafael Municipal Code and any applicable county, state or federal approval required for such sign.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.024 Requirements for associated city permits and approvals.

Any associated city permit or approval required for a sign, including but not limited to a building permit, electrical permit, encroachment permit, or planning permit (e.g., use permit or environmental and design review permit) that is required shall be approved prior to the posting, installation, erection or construction of the sign.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.025 Interpretation of provisions of this chapter.

The community development department staff shall have the authority to interpret the provisions of this chapter. Should there be a question or disagreement regarding the interpretation of the department staff, the community development director shall review the dispute and render a determination as to the intent of the chapter provision. Sign terms and definitions used to interpret the provisions of this chapter are found in Chapter 14.03, Definitions.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.026 Severability.

In the event that any part of this chapter is held to be invalid or inapplicable to any sign or signs, it is intended that the invalid section or sections be severed from the remaining provisions in order to continue in force and effect the remaining sections of this chapter.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.030 Exempt signs.

The city 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 city, and the expeditious notification to the public of information affecting essential public services. Therefore, the following signs are exempt from the provisions and regulations of this chapter:

A. Building and Street Address Signs. Each sign shall not exceed five (5) square feet in size and one per building for each street frontage.

B. Official Flags. Official flags of any nation, state or local government. Official flags may be placed on a pole not exceeding the height limit established by the applicable zoning district. Flags over the height limit are subject to environmental and design review pursuant to Section 14.16.120 and Section 14.25.040. The height of the flag shall be no more than one-fourth (¼) the height of the pole.

C. Weather flags, nautical flags and pennants when displayed on boats, in marinas, or on any land area within fifty feet (50') of water frontage, where primarily intended to be viewed from the water and void of any commercial messages.

D. On-Site Directional or Informational Signs. Directional or informational signs placed on-site, which are intended to provide public safety or convenience, not exceeding five (5) square feet in area per sign. Examples of such signs include, but are not limited to, parking lot directional signs, posting of business hours and location of restrooms, telephones, "parking in rear," "drive-through service window," and "no-smoking." Premises addressing signs that are larger than five (5) square feet in size shall be exempt if the larger addressing sign is required by the Fire Code.

E. Signs Essential for Public Purposes. Signs installed by the city, a state or federal governmental agency, and public utility or service, which are essential for public purposes. Public purpose signs include, but are not limited to official signs for traffic control (e.g., street signs), fire and police signs, signs for other regulatory purposes, such as for public information and safety, public notices, emblems and other forms of official identification.

F. Interior Signs. Signs located within the interior of a building, lobby, mall or court, when such sign is intended for interior viewing. This provision does not apply to interior signs placed within ten feet (10') of a window, where such sign is visible from a public street.

G. Nonstructural Modifications and Maintenance of Conforming Signs. Modifications and maintenance of a conforming sign that are nonstructural. Modifications do not include a change in sign face or copy, which requires the approval of a sign permit under Section 14.19.041 of this chapter.

H. Signs Regulated by State or Federal Laws. Signs that are regulated by state or federal laws, or other applicable local laws, provided that such signs are sized and located to be consistent with the state, federal, or local applicable laws. Examples of such signs include the posting of gasoline and fueling station price signs.

I. Community Gardens Signs. Informational signage required for community gardens as outlined in Section 14.17.030, provided that such signs do not exceed the maximum allowable size contained in said section.

J. Community Service Signs. Signs installed on city owned property by the city of San Rafael for the purpose of providing multi-lingual information of: upcoming events, classes, meetings and/or update on neighborhood/community issues. These signs may be electronic face and contain moving messages for the purpose of allowing dissemination of information in multiple languages and shall be subject to the following standards:

1. Number of Signs: One electronic message signs shall be permitted per site.

2. Size of Signs: Signs shall be a maximum size of forty-eight (48) square feet.

3. Height of Signs: Free-standing electronic message signs shall not exceed a height of six feet (6').

4. Sight Distance: Free-standing electronic message signs shall provide an adequate line of sight distance pursuant to Section 14.16.295.

5. Hours of Use: Electronic message signs shall be equipped with a timer to assure the signs are not used between the hours of 10 p.m. and 7 a.m.

6. Length of time for display of each message: Electronic message signs may display changing messages provided that each message is displayed for no less than four (4) seconds.

7. Brightness Sensors: Electronic message signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim

according to ambient light conditions (e.g., photocell technology), or that can be adjusted to comply with the 0.3-foot candle requirement.

8. The signs shall not include neon lights.

9. The signs shall be subject to a ninety (90) day post installation review.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

(Ord. No. 1882, Exh. A, § 72, 6-21-2010; Ord. No. 1964 , § 2(Exh. B) § 29, 11-19-2018)

14.19.040 Sign application and permit procedures.

Except for those signs that are exempt under Section 14.19.030, all signs shall require the approval of a sign permit and shall follow the permit procedures set forth in Sections 14.19.041 through 14.19.049.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.041 Sign permit required.

A sign permit shall be required for all signs that are posted, installed, erected or constructed, and for changes in sign copy or face of existing signs.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.042 Application.

All sign permit applications shall be filed with the community development department, planning division and shall include the following information:

A. A completed application form containing a written description of the sign size and location. The form shall be signed by the property owner or an authorized representative such as a licensed sign contractor, or purchaser under a contract of sale or lessee.

B. The application fee, as amended from time to time by resolution of the city council.

C. Graphic materials, drawn to scale and dimensioned, describing the sign location and design. Application materials shall include elevations, drawings, plot and site plans, profiles, photographs, proposed illumination, color and material samples, an inventory of all existing signs on the subject property and other pertinent information which may be deemed necessary to review and render a decision on the application.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.043 Review authority.

Application, administration and authority over the provisions and requirements of this chapter shall lie with the following official bodies or officials:

A. Community Development Director. The community development director or his or her designee has the authority to:

1. Approve, conditionally approve or deny a sign permit, as set forth in Section 14.19.048(A) and signs requiring a minor exception, as set forth in Section 14.19.048(B). ~~Refer a sign permit~~

~~application to the design review board for advisory review and recommendation on design matters relating to a sign proposal.~~

2. Approve, conditionally approve or deny a request for an extension to an approved sign permit and requests to extend, modify or revise an approved sign program.

B. Planning Commission. The planning commission has the authority to approve, conditionally approve or deny:

1. A sign program, as set forth in Section 14.19.046;

2. Signs requiring a major exception, as set forth in Section 14.19.045;

3. Signs incorporated into the design of new buildings or major design improvements proposed to existing buildings and properties, and mural signs subject to an environmental and design review permit, as set forth in Chapter 14.25;

4. Appeal of sign permit actions of the community development director.

~~C. Design Review Board. The design review board shall serve as an advisory body to the planning commission and community development director on all sign programs and environmental and design review permits for building and site improvements that include signs, including mural signs. As determined on a case-by-case basis by the community development director or planning commission, the design review board may provide advisory review and recommendations on other sign matters.~~

~~D~~C. Appeals. All decisions of the community development director or the planning commission can be appealed in accordance with the provisions of Chapter 14.28, Appeals.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.044 Criteria for approval of signs.

All signs requiring sign permit approval shall comply with the provisions of this chapter, unless an exception has been granted or a sign program has been approved, which authorize deviations from these provisions.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.045 Exceptions (major and minor).

When a proposed sign(s) deviates from the provisions and standards of this chapter pertaining to sign size, placement, type, number, design and type of illumination, an exception request may be filed with a sign permit application, subject to the following:

A. Minor Exceptions. A minor exception applies to requests which do not deviate from the sign provisions for size and height by more than twenty percent (20%), or when the community development director determines that alternative placement, number, type, design or illumination of a proposed sign(s) would be minor and appropriate for the site, business or use.

B. Major Exceptions. A major exception applies to requests, which deviate from the standard or provisions for sign size and height by more than twenty percent (20%), or when the community development director determines that alternative placement, number, type, design or illumination of a proposed sign(s) would be major.

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 building improvements;

2. The exception is appropriate in that it would allow signage that would be in proper scale with the building and site improvements, would be compatible with other conforming signs in the immediate vicinity, and would promote a good design solution; 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. The exceptions process shall not apply or be used to permit a prohibited sign, as set forth under Section 14.19.080 of this chapter.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.046 Sign programs.

The establishment of a sign program shall be an alternate to the sign standards and provisions contained in this chapter under certain circumstances, as follows:

A. Purpose. Sign programs are specifically intended for unique use and property circumstances with the purpose of addressing multiple uses on one site or multiple signs for uses with special sign needs. Sign programs shall be used to achieve aesthetic compatibility between the signs within a project, and may allow some flexibility in the number, size, type and placement of signs.

B. Applicability. Sign programs are permitted specifically for shopping centers, a single building or multiple buildings containing multiple tenants on one or more contiguous sites, signs proposed in a planned development (PD) district, gasoline or fueling stations and automobile or vehicle dealerships and movie theaters only. Sign programs shall not be used for other uses or conditions with the intent to deviate from the provisions of this chapter.

C. Design Continuity. Sign programs shall be designed so that all signage has a consistent and common design theme and placement, utilizing common materials, colors and illumination.

D. Findings Required for Approval of a Sign Program. The planning commission shall make the following findings in rendering a decision on 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 standards specified in Section 14.19.054; and

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

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.047 Environmental and design review permit.

When new buildings are proposed for development or exterior design modifications are proposed to existing buildings subject to an environmental and design review permit (as set forth in Chapter 14.25), signage shall be

incorporated into the design improvements of the project. Under these circumstances and unless approved as part of a sign program, signage shall be considered and processed with the required environmental and design review permit, as set forth in Chapter 14.25. When signage is reviewed and approved with an environmental and design review permit, no separate sign permit shall be required provided that:

A. The signage complies with the provisions of this chapter; and

B. The size, placement, design, number and illumination parameters of the permitted signage are adequately documented in the approved plans or conditions of approval for the environmental and design review permit.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.048 Processing and noticing requirements.

The following processing and noticing procedures shall be followed prior to rendering a decision on 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 approvals, the community development director, or his or her designee, shall 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 and Modifications to an Approved Sign Program. Following review of an application for and prior to rendering a decision on a minor exception or a modification or revision to an approved sign program, property owners contiguous to the subject property shall be mailed a public notice informing them of the director's intent to act on the application. The notice shall indicate that the director will take action on the application, on or after the date, which is fifteen (15) calendar days following the date of the notice.

C. Major Exceptions, Sign Programs, Mural Signs and Appeals. Major exceptions, sign programs, mural signs, appeals and other sign-related applications requiring planning commission action shall be noticed consistent with the requirements of Chapter 14.29, Public Notice.

D. Prompt Review and Action. Review and action on any sign permit, exception or sign program applications or on any administrative appeal of any action taken by the city on these applications shall be prompt and expeditious, according to the provisions of law and the city's municipal code and procedures. Judicial review shall be in accordance with the provisions of Code of Civil Procedure Sections 1094.8 et seq.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.049 Time limits for sign permit and related sign approvals.

A. Initial Time Limits. All sign permit, sign program and exception approvals shall expire six (6) months from the action date, unless the approved sign(s) has been installed, erected or posted, or unless another time limit is specified as a condition of approval.

B. Time Limits for Extensions. Prior to expiration of a sign permit, sign program or exception, the applicant may apply to the community development department for an extension from the date of expiration.

C. Automatic Extension when Subsequent Permits are Approved. The expiration date of the sign permit, sign program or extension shall be automatically extended when a building permit, electrical permit,

encroachment permit or similar subsequent permit is granted. The approval shall be automatically extended to concur with the expiration date of the subsequent permit.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.050 General sign provisions.

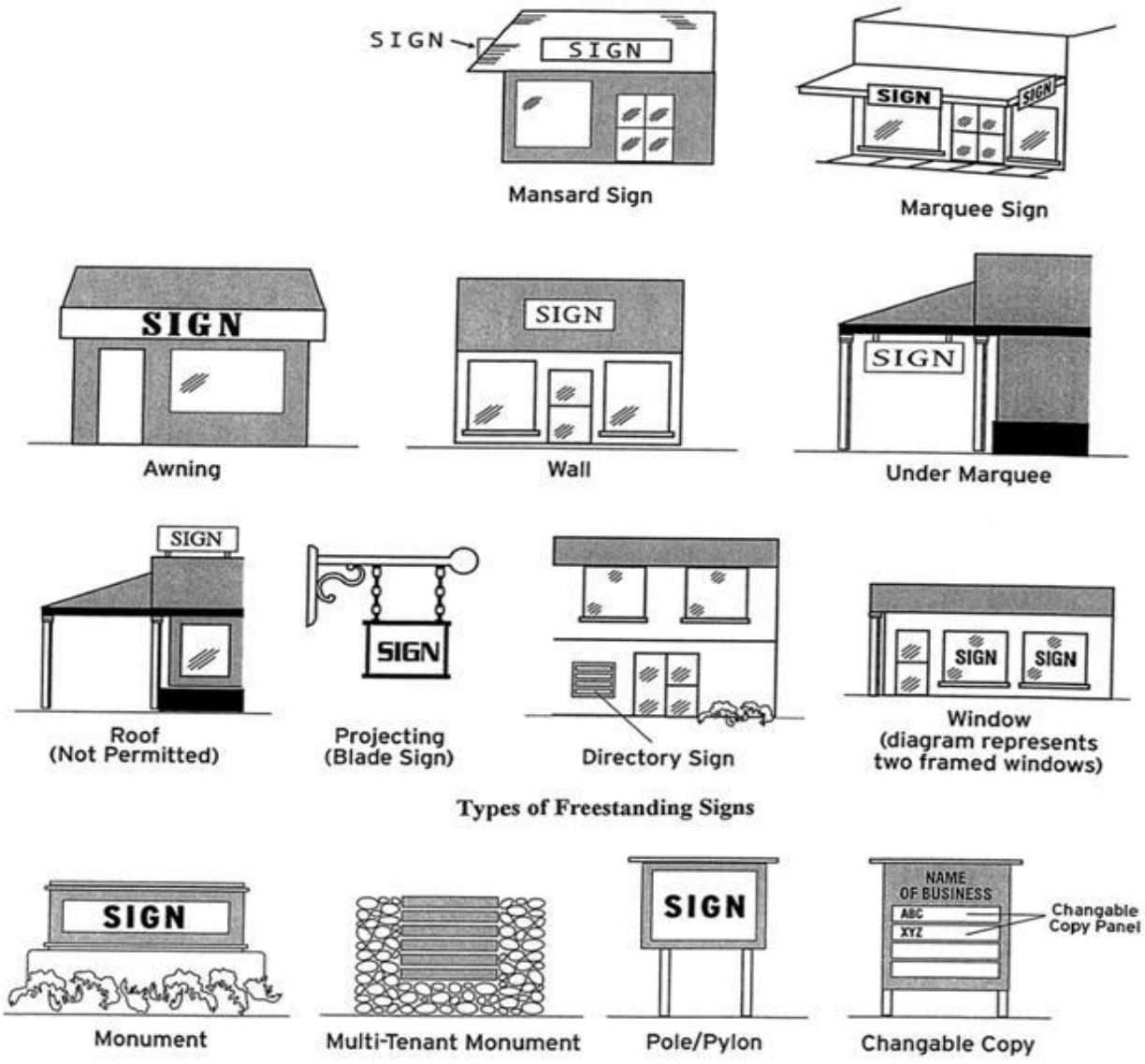
All signs subject to the provisions of this chapter shall comply with the following general sign provisions.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.051 Types of signs.

Examples of sign types are presented in Figure 14.19-1. A definition for these sign types is provided in Chapter 14.03, Definitions. The type of sign that is permitted for a business or use shall be regulated by zoning district, as specified in Section 14.19.060 and Table 14.19-2 of this chapter.

Figure 14.19-1
Types of Signs



(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.052 Computation or 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:

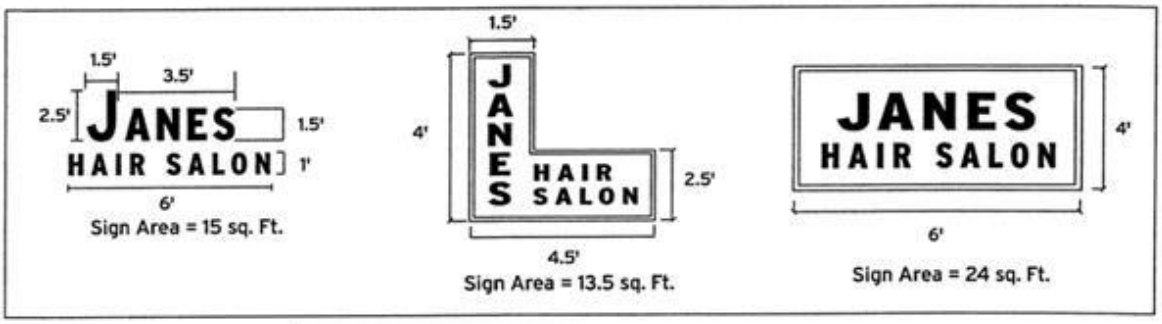
1. By enclosing the extreme limits of all framing, writing, logo, representation, emblem and other display including, among others, telephone numbers and internet web site addresses within a single, continuous perimeter composed of squares or rectangles. This method of sign measurement is depicted in Figure 14.19-2.

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 (2) lines of script is more than twice the height of the script, each line shall be counted as one sign. This method of sign measurement is depicted in Figure 14.19-2.

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, and non-geometric three-dimensional shapes shall be measured as the area of their maximum projection upon a vertical plane. This method of sign measurement is depicted in Figure 14.19-3.

Figure 14.19-2
Measuring Surface Sign Area



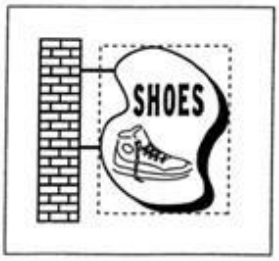


Figure 14.19-3
Measuring Three-Dimensional Signs

C. Measuring Double-Faced (back-to-back) Signs. The area of a double-faced sign where the sign faces are placed back-to-back 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 area of all faces that can be viewed from any one direction at one time shall be counted in determining the permitted sign area.

E. Tubing or Strings of Lights. Exclusive of seasonal decorations and lighting, illuminated tubing and strings of lights used to outline portions of a building or windows shall be included in the calculation of permitted sign area. The tubing or strings of lights shall be deemed to have a minimum width of six inches (6") 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 the sign area.

F. Clocks and Temperature Display. Elements of a sign displaying time of day and temperature shall be included in measuring the surface sign area, when such elements are clearly a part of or integral to a sign or sign structure displaying the business or use. Clocks and architectural elements and structures solely displaying time of day or temperature in analog or digital format are considered signs and are subject to the provisions of this chapter.

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, which are framed or have distinguishing color background shall be measured by the entire area of the sign and background, including the framing surfaces.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.053 Location, placement and design of signs.

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

A. On-Site Location Only. All signs shall be located on the same site or building as the subject business or use, except as otherwise permitted by the provisions of this chapter.

B. No Obstruction of Exits, Windows and Safety Equipment. No sign shall be built, placed, posted or affixed 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 or window.

C. Maintenance of Adequate Sight Distance. No sign shall be built, placed, posted or affixed 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 that are proposed or are in use.

D. General Placement of Signs. The permitted sign(s) for a business or use shall be placed on the street front face or front elevation of the building where the business or use is located (see definition for frontage, business or use in Chapter 14.03) with the following exceptions:

1. Where a building is located on a one-way street, or where public visibility of the front face or front entrance of the building is limited or impaired, the permitted sign may be placed on the side or rear face or elevation of the building to improve visibility, provided that the provisions for sign size and number are not exceeded.

2. Where a business or use is within a multi-tenant building and has no frontage, or is located on a floor above or below the ground floor level, identification for the business or use shall be limited to a building directory sign placed at the building entrance, or on a multi-tenant, monument sign, when such sign is permitted under the provisions of this chapter.

E. Frontage on Corner Lots. On corner lots where a business or use has frontage on two (2) streets, signs may be placed on both street frontages, but the permitted square footage for each building front may not be transferred from one street frontage to another.

F. Frontage on a Public Parking Lot or Public Parking Structure. Where a business or use has frontage on and an entrance access to a public parking lot or public parking structure, this frontage shall be considered the same as frontage on a public street when determining permitted sign area.

G. Placement of Window Signs. No more than twenty-five percent (25%) of the area of a framed window or a continuous window area shall be used for a sign. 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. Except in the downtown districts where second floor business signs are permitted, window signs shall be permitted only in windows located on the ground floor of a structure. Permanent 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.

H. Placement and Design of Marquee Signs. The location and placement of marquee signs shall be subject to the following provisions:

1. A minimum vertical clearance of eight feet (8') 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 (½) the height of the marquee face and is below the building roofline.

I. Placement and Design of Projecting and Blade Signs. The location and placement of projecting and blade signs shall be subject to the following provisions:

1. The maximum permitted sign area for a projecting sign shall be thirty-six (36) square feet, except in the downtown mixed use district. In the downtown mixed use district, a projecting sign shall not exceed five (5) square feet in area.

2. A minimum vertical clearance of eight feet (8') 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 business or use only.

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

5. Signs shall be placed to maintain appropriate sight distance.

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

7. To avoid visual clutter, a minimum distance of fifteen feet (15') shall be maintained between projecting and blade signs that are located on the same property. This provision does not apply in the downtown mixed use district.

J. Placement and Design 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 feet (3') 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 roof surface, so that the rear of the sign and the sign bracing is not visible.

K. Placement and Design of Awning Signs. The location and placement of awning signs shall be subject to the following provisions:

1. Signs may be placed on the sides or ends of the awning. However, each sign placed at this location shall be counted as one of the permitted signs for the business or use.

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

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

L. Placement and Design of Freestanding Signs. The location and placement of freestanding signs shall be subject to the following provisions:

1. Signs shall be placed so that the sign face is perpendicular to the public street or right-of-way, to the extent possible.

2. A minimum distance of seventy-five feet (75') shall be maintained between any two (2) freestanding, pole or pylon-type sign. Where there is less than seventy-five feet (75') between two (2) such signs, a freestanding sign may be permitted provided that it is limited to a monument-type sign, as specified in Table 14.19-1.

3. A freestanding sign shall not exceed the height of the building on the site where the sign is located.

4. Freestanding signs are permitted on sites, which have a minimum frontage width of fifty feet (50') and minimum building setback of fifteen feet (15'). Freestanding signs are regulated by zoning district, as specified in Section 14.19.060 and Table 14.19-2 of this chapter. The general sign area and height limits for all freestanding signs are as follows (Table 14.19-1):

Table 14.19-1
Requirements and Limitations for Freestanding Signs

Location	Minimum Lot Frontage	Minimum Building Setback+	Maximum Sign Area	Maximum Sign Height++	Permitted Sign Type
General Location	50—75 feet	15 feet	32 sf	6 feet	Monument
	76+ feet	25 feet	36 sf	21 feet	Monument, Pole/Pylon
Freeway-Oriented*	50—75 feet	15 feet	32 sf	6 feet	Monument
	76—99 feet	25 feet	36 sf	21 feet	Monument, Pole/Pylon
	100—249 feet	25 feet	50 sf	21 feet**	Monument, Pole/Pylon
	249+ feet	35 feet	72 sf	21 feet**	Monument, Pole/Pylon

* "Freeway-Oriented" means those businesses and uses directly facing a frontage road, which is both parallel to and generally level with US Highway 101 or Interstate 580.

** Height bonus permitted: one (1) foot of sign height for every five (5) feet of sign setback measured from the property line, up to a maximum sign height of 25 feet.

\+ Minimum building setback measured from property line.

++ Freestanding sign height shall be measured from the ground level or grade at which the sign is placed to the highest elevation point of the sign.

Note: See Table 14.19-2 (Sign regulations for zoning districts) and Section 14.19.060 (Commercial office, industrial marine districts) for additional requirements.

M. Placement and Design of Changeable Copy Signs. Changeable copy signs shall be permitted in conjunction with the approval of a sign program. In the event the signage is not part of a sign program, a changeable copy sign may be proposed with a request for a sign permit in any zoning district subject ~~to the following:~~

~~1.~~ ~~The~~ but the changeable copy face shall be no more than fifty percent (50%) of the sign face area~~.; and~~

~~2. The sign shall require review and a recommendation by the design review board.~~

N. Placement of Signs on Public Bus Shelters. Signs placed on public bus shelters under contract with the city are permitted subject to the approval of an environmental and design review permit.

O. Placement and Design of Mural Signs. Murals that are defined as a sign in Chapter 14.03 are permitted subject to the approval of an environmental and design review permit by the planning director. ~~The sign shall require review and a recommendation by the design review board.~~

P. Placement and Design of Directory Signs. Directory signs shall be placed at the building entrance that provides primary access to the businesses or uses contained within the building. Directory signs shall not exceed ten (10) square feet in area, and shall be affixed to the wall of the building (wall sign).

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

(Ord. No. 1882, Exh. A, §§ 73, 74, 6-21-2010; Ord. No. 1996 , div. 2(Exh. A, 9.1), 8-16-2021)

14.19.054 General design standards.

All signs subject to the approval of a sign permit shall comply with the following design and performance standards:

A. Sign Design. The design of the sign, including the shape shall be:

1. An integral part of, compatible with, and complement the design of the buildings and improvements on the site where the sign is to be located and shall be compatible with the character and design of signs in the immediate neighborhood of the site. Creative and unique design is encouraged provided that the design is appropriate for the site and improvements and compatible with the character of the surrounding area.

2. The sign message, including the use of graphic symbols shall be simple. Lettering shall be legible, uncomplicated, and appropriate to the image of the building.

B. Sign Type. The type of sign shall be appropriate for the building and improvements on the site where the sign is to be located. The following sign types are encouraged:

1. The use of individual letters incorporated into the building design is encouraged and preferred over signs contained in a canister or frame, or signs directly painted on the surface of a building.

2. Monument-type freestanding signs are encouraged and preferred over pylon or pole-type signs.

Upon request, a bonus sign area of ten percent (10%) above the maximum permitted sign area will be granted as an incentive to select one of the encouraged sign types. A request for bonus sign area must be included in the application for a sign permit.

C. Sign Colors and Materials. The colors and materials for the sign shall be compatible with and complement the colors and materials of the buildings and improvements on the site where the sign is to be located. The following standards are required:

1. Sign colors shall be subtle. Bright and reflective colors shall be avoided, unless such colors are proposed to promote a creative or unique sign design. The use of contrasting colors between sign background and the sign script or logo is encouraged to maximize legibility.

2. Sign materials shall be compatible with the materials used on the buildings and improvements found on the site.

3. Sign materials that are metal or have reflective qualities shall have a matte or non-glare surface.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.055 Illumination standards.

The illumination of signs from an artificial source shall be minimized to avoid a nuisance, hazard, light and glare on the property where the sign is to be located and on the surrounding neighborhood. The following sign illumination standards shall be required:

A. Sign Illumination Regulated by Zoning District. The type of sign illumination that is permitted shall be regulated by zoning district, as specified in Section 14.19.060 and Table 14.19-2 of this chapter.

B. Illumination that is Permitted. All lighting shall comply with current electrical code requirements. The following types of illumination are permitted:

1. Internal illumination. The light source is internally located or concealed behind an opaque face of individuals letters or a framed canister. The rays of illumination go through the face of the sign or are projected outwards toward the edge of the sign forming a halo around the sign frame.

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 electrically charged, but responds to light, such as from passing vehicle headlights, by shining or glowing.

4. Neon. Exposed neon or other gas-filled tubing is permitted with limited use. ~~., subject to review and a recommendation by the design review board.~~

C. Illumination Intensity. No sign shall be illuminated so that the primary source of the light is visible beyond the property line or in any way will cause excessive glare or brightness. The city shall reserve the right to require and/or complete a post-installation inspection of the sign illumination. If, as a result of this inspection it is determined that the illumination is too bright and adversely impacts adjacent properties and uses, the city can require a reduction and/or adjustment in the intensity of the sign illumination, so that it is in keeping with the general level of illumination on surrounding properties.

D. Illumination that is Prohibited. Except as permitted by Section 14.19.030.I.,the following types of illumination are prohibited:

1. Blinking, flashing or fluttering lights or illumination that has a changing light intensity, brightness or color;

2. Animation or moving messages;

3. Searchlights.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1964 , § 2(Exh. B) § 30, 11-19-2018)

14.19.060 Zoning district sign standards.

The size, type, number and illumination of signs shall be regulated by zoning district. Except for those signs not subject to a sign permit under Sections 14.19.030 and 14.19.070 of this chapter, or signs authorized through approval of a sign program under Section 14.19.046 of this chapter, all signs approved and erected on and following the date this chapter is enacted shall comply with the standards and limitations set forth in this section and in Table 14.19-2 for each zoning district.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.061 Allowance—Number of signs permitted.

The maximum number of signs that are permitted for a business or use shall be regulated by zoning district, as specified below and in Table 14.19-2 of this chapter. Where more than one sign is permitted for a business or use, the combined area of the signs shall not exceed the sign square footage limit that is allotted.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.062 Single-family residential and duplex residential districts.

In order to protect and preserve the character and quality of life in the single-family residential and duplex residential districts, signs located in these districts shall be limited in number, type, size and illumination, so as to minimize signage, while allowing necessary identification of the subject uses. Permitted signs include the following, and as specified in Table 14.19-2:

A. Permitted uses in the single-family and duplex residential districts shall be allowed one wall sign per residential unit, not exceeding five (5) square feet in area. No sign permit is required. Examples of signs for permitted uses would be, among others, signs displaying a residential nameplate, or a small residential care, family care home or day care facility for six (6) or fewer residents. Home occupation signs are regulated under Section 14.16.220(D) of this title.

B. Conditional uses in the single-family and duplex residential districts that are subject to the approval of a use permit shall be allowed one wall or monument-type sign, not exceeding twenty (20) square feet in area. Examples of signs for conditional uses would be, among others, signs displaying a school, a religious institution, or a large residential care, day care or family care facilities for seven (7) or more residents, children or adults.

C. Monument-type signs sited at the entrance of a neighborhood or subdivision, placed on private property, not exceeding twenty (20) square feet per sign and two (2) per entrance.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.063 Multiple-family residential and residential or office districts.

Signs located in all multiple-family residential and residential or office districts shall be limited in size and illumination, as these districts provide a transition between the single-family and duplex residential districts and the non-residential districts. Permitted signs include those signs permitted in the single-family and duplex residential districts, except that a greater number and amount of sign area, and a broader range of sign types are permitted, as specified in Table 14.19-2.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.064 Commercial, office, industrial, marine related districts.

Signs located in all commercial, office, industrial, and marine related districts shall be permitted sign area based on the linear width of business or use frontage (see definition for frontage, business or use in Chapter 14.03), as follows:

A. Single-Tenant Buildings. All non-residential uses except for office uses, shall be permitted one square foot of sign area for each linear foot of business or use frontage, up to a maximum of two hundred (200) square feet. For buildings with more than two hundred feet (200') in linear frontage width, a maximum sign area of two hundred (200) square feet shall be permitted. Office uses shall be permitted

one-half (½) square feet of sign area for each linear foot of building frontage, up to a maximum sign area of one hundred (100) square feet of sign area, regardless of building frontage width.

B. Multiple-Tenant Buildings. For all non-residential uses, except for office uses, each ground floor occupant shall be entitled to one square foot of sign area for each linear foot of business or use frontage, with each occupant entitled to a minimum sign area of twenty-five (25) square feet. For office uses, each ground floor occupant shall be entitled to one-half (½) square feet of sign area for each linear foot of office tenant frontage, with each office use entitled to a minimum sign area of fifteen (15) square feet.

C. Where a business or use is located in a multiple-tenant building, and where such business or use has no frontage or is located on a floor above or below the ground floor level, identification shall be limited to a building directory sign or multi-tenant monument sign, as provided in Sections 14.19.053(D)(2) and 14.19.053(P) of this chapter.

D. For buildings with less than twenty-five feet (25') in linear frontage width, a minimum sign area of twenty-five (25) square feet shall be permitted for all non-residential uses except for office uses. For such buildings containing office uses, a minimum sign area of fifteen (15) square feet shall be permitted.

E. For a single business or use with more than one frontage or where a business or use is contained in more than one building, each frontage shall be considered and calculated separately in determining permitted sign area. However, in no case shall one business or use be permitted more than an aggregate sign area of two hundred (200) square feet. For office uses, the maximum permitted, aggregate sign area shall be one hundred (100) square feet.

F. For all non-residential uses except for office uses, a maximum of two (2) permanent signs shall be permitted per frontage for each business or use except as follows:

1. There shall be no more than one freestanding sign per lot or parcel.

2. There shall be no more than one projecting sign per business or use.

3. Office uses shall be permitted a maximum of one permanent sign per frontage for each office tenant.

G. Small, ancillary, informational signs are not included in the calculation of the allowable sign area or number, if such signs, in aggregate, do not exceed five (5) square feet in area. Examples of such signs include, among others, signs displaying hours of operation, business and association memberships, credit cards that are accepted, "now hiring" signs and restaurant menus.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.065 Downtown mixed use district.

Size, placement and design of signs in the downtown mixed use district are intended for view primarily by pedestrians and persons in vehicles nearby at the street level, not from long distances. The unique characteristics found in the downtown mixed use district include a higher density of business uses, and multiple ground floor business uses, which substantiate special sign provisions. Signs located in the downtown mixed use district shall be subject to the following provisions:

A. Permitted sign area shall be based on frontage width of a business or use, per the provisions of Sections 14.19.064(A) through (E) and 14.19.064(G).

B. For all non-residential uses except office use, a maximum of three (3) signs shall be permitted per frontage for each business or use, which may be a combination of sign types. For office uses in the

downtown mixed use district, a maximum of one sign shall be permitted per frontage for each business or use.

Table 14.19-2

Sign Regulations for Zoning Districts

Zoning District	Permitted Sign Type	Permitted Number of Signs	Maximum Sign Area**	Maximum Sign Height (freestanding)	Permitted Illumination
Single-Family Residential & Duplex Residential Districts	Wall [permitted uses, see Section 14.19.062(A)]	One (1) per residence	Five (5) square feet	NA	No illumination+
	Monument [subdivision or neighborhood sign]	Two (2) per entrance	Twenty (20) square feet (per sign)	Six feet (6′)	External illumination only+
	Wall, Monument, Directory, Changeable Copy [uses subject to approval of a Conditional Use Permit, see Section 14.19.062(B)].	One (1) per site	Twenty (20) square feet	Six feet (6′)	External illumination only+
Multiple-Family Residential Districts & Residential/ Office Districts	Wall, Projecting/Blade, Awning, Monument, Directory, Changeable Copy	Two (2) per site	Multiple-Family Residential Districts: Twenty-five (25) square feet (e.g., building identification, rental & vacancy information)** Residential/Office Districts: Thirty-six (36) square feet**	Six feet (6′)	External illumination only+
Commercial, Office,	Wall, Window, Projecting/Blade,	For nonresidential	For nonresidential	Six feet (6′) for	External illumination,

Industrial, Marine Related Districts (NC, GC, O, C/O, FBWC, LI/O, I, CCI/O, M and MC)	Awning, Marquee, Mansard, Monument, Directory, Changeable Copy and Pole/Pylon signs	uses except office uses: Two (2) per frontage of business or use**	uses except office uses: One (1) square foot for each linear foot of building width of business or use frontage** Minimum sign area of twenty-five (25) square feet. See 14.19.064.	monument signs Twenty-one feet (21') for pole/pylon signs Twenty-five feet (25') for freeway-oriented pole/pylon signs*	Internal illumination, Reflective illumination and Neon
		For office uses:	For office uses:		
		One (1) per frontage of business**	One-half (½) square foot for each linear foot of building width of business frontage** Minimum sign area of fifteen (15) square feet. See 14.19.064.		
Downtown Mixed Use District	Wall, Window, Projecting/ Blade, Awning, Marquee, Mansard, Monument, Directory, Changeable Copy and Pole/Pylon sign.	Three (3) per frontage of business or use, except for office use (1 max)**	Same as permitted in the Commercial, Office, Industrial and Marine Related Districts.	Six feet (6') for monument signs Twenty-one feet (21') for pole/pylon signs	External illuminated, Internal illumination, Reflective illumination and Neon
	Second floor tenant: Window	Second floor tenant: One (1) per use.	Second floor tenant: Five (5) square feet	NA	No illumination permitted.
Other Districts	Compliance with standards and provisions of the zoning district that is most similar to the	Compliance with standards and provisions of district most similar to the	Compliance with standards and provisions of district most similar to the subject zoning district.	Compliance with standards and provisions of district most similar to the	Compliance with standards and provisions of district most similar to

	subject zoning district.	subject zoning district.		subject zoning district.	the subject zoning district.

;note; + ;hg;Exception: Internally illuminated and backlit illumination permitted for property and building address signs.

* Freeway-oriented signs are permitted for businesses and properties, which directly face a frontage road that is both parallel to and generally level with Highways US 101 or I-580 (Table 14.19-1).

** Unless, as noted, where more than one (1) sign is permitted for a business or use, the combined area of the signs shall not exceed the maximum permitted sign area (see Section 14.19.061).

Note: See Table 14.19-1 (Requirements and limitations for freestanding signs) and Section 14.19.053.L (Placement and design of freestanding signs) for additional requirements.

C. Projecting and marquee signs placed under a roof eave or awning are encouraged to provide pedestrian-oriented signage. Projecting signs shall not exceed five (5) square feet in area.

D. Second floor tenant window signs are permitted and shall not exceed one (1) per business or use and five (5) square feet in area.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

(Ord. No. 1882, Exh. A, § 75, 6-21-2010; Ord. No. 1996 , div. 2(Exh. A, 9.2, 9.3), 8-16-2021)

14.19.066 Other districts.

Signs located in zoning districts other than those referenced in Sections 14.19.062 through 14.19.065 of this chapter shall comply with the standards and provisions of the zoning district that is most similar to the subject district.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.070 Temporary signs.

The city recognizes that temporary signs are often used as a means of communicating messages, whether commercial or noncommercial, as to certain temporary or short term matters or events such as commercial promotions, special events or activities, elections and current events. The regulations in this section are intended to allow the expression of such communications while minimizing the adverse aesthetic or public safety impacts that may be caused by the uncontrolled proliferation and abandonment of such signs, such as visual clutter, traffic obstruction and accumulation of debris. The following signs are considered temporary and may be posted on site for a limited period of time in accordance with the provisions of this chapter. Unless noted below as not requiring sign permit approval, temporary signs require the approval of a sign permit prior to being installed or erected:

A. City-Installed Banners. Banners, signs, and associated supporting structures installed by the city for events and announcements, which are placed across or over a public street, or affixed to street light poles. The location, placement and provisions for such banners, signs and supporting structures shall be established by standards and subject to fees, as set forth by resolution of the city council from time to time. No sign permit is required.

B. Noncommercial Signs. Temporary signs bearing ideological, political or other noncommercial message, including, but not limited to, political and election signs may be located on a site or place of business.

The total sign area permitted per site or place of business shall not exceed thirty-two (32) square feet. Noncommercial signs may be displayed for a maximum of ninety (90) days per calendar year. Signs relating to an election shall be removed no later than ten (10) days following the election. No sign permit is required.

C. Real Estate Sale and Leasing Signs. Temporary real estate sale and leasing signs shall be subject to the following:

1. On-Site Display. Ground-mounted or placed on the building, not exceeding five (5) square feet and one (1) in number per building for single-family, duplex residential and multiple-family residential uses. On-site display signs shall not exceed twenty (20) square feet and two (2) in number for all nonresidential uses.

2. Off-Site Display. A-frame or ground-mounted, placed off-site such as for announcement of an open house, not exceeding five (5) square feet in size. Open house signs shall be permitted between the hours of ten a.m. (10:00 a.m.) and seven p.m. (7:00 p.m.) on Saturdays, Sundays, Thursdays (brokers open) and holidays, and shall be limited to five (5) in number.

3. No real estate sign shall be placed in the public right-of-way, which includes the sidewalk, travel or parking lane and center median of a street.

4. No sign permit is required.

D. Special Function and One-Time Event Signs. Signs, posters and notices for special functions and one-time events are permitted subject to the following:

1. A maximum of two (2) signs, not exceeding ten (10) square feet in area for each sign;

2. Signs shall be posted on-site or off-site on private property. Such signs shall not be placed on utility poles, streetlights or fences located on public property;

3. Signs shall not be displayed for more than seven (7) days prior to or more than four (4) days after the function or event;

4. In no instance shall a sign for a special function or one-time event be displayed for more than thirty (30) days;

5. Signs displayed or placed in a window shall not exceed twenty-five percent (25%) of the window area;

6. No sign permit is required.

Examples of special function and one-time event signs include, among others, signs dis playing a special sale, grand opening, business closing, garage, yard or estate sale, meetings, or fundraisers.

E. Temporary Banners. Banners may be displayed by businesses and uses on a temporary basis in all zoning districts, except in the single-family residential, duplex residential and multiple-family residential districts, subject to the following permit requirements and criteria:

1. A sign permit is required and must be obtained prior to the display of a temporary banner. The submittal requirements for a sign permit for temporary banners are as follows:

a. A complete application form;

b. A photograph of the site showing the proposed location of the banner(s);

c. Three (3) sets of drawings denoting the banner, the location of the banner as it would appear on the building or property, the total banner area (length and width), the linear street frontage of the business or use for multiple-tenant buildings, proposed illumination

and method of banner attachment. These drawings need not be prepared by a professional architect or draftsperson, but shall include all appropriate dimensions and/or scale;

d. A completed and signed (by the business owner) pre-citation form noting the term or duration of time for display of the banner;

e. The required application fee for an administrative level sign permit.

2. All temporary banners shall comply with the following criteria:

a. One banner, up to a maximum size of thirty-two (32) square feet is permitted per business or use frontage. Businesses or uses with two (2) frontages are permitted two (2) banners authorized under one (1) sign permit, provided that both banners have the same beginning and expiration dates, are each placed on separate frontages, and neither banner exceeds thirty-two (32) square feet. Temporary banners shall be excluded from the calculations of the maximum, total permanent sign area for a business or use permitted by the sign ordinance (San Rafael Municipal Code Title 14, Chapter 19).

b. No banner, in whole or in part, shall include, via attachment or any other means, windblown devices intended to attract attention such as posters, pennants, ribbons, streamers, strings of light bulbs, spinners, balloons, or other inflatable objects.

c. Temporary banners may be displayed for a maximum of sixty (60) days per calendar year, which can occur all at once or in increments. A separate sign permit shall be required for each increment. Extensions of an approved sign permit for a temporary banner may be granted, provided that the banner does not change, the extension request is received in writing no less than two (2) working days prior to expiration, and the maximum sixty (60) day time limit for display is not exceeded.

d. Banners shall be attached to the building. However, where a business or use is set back from the street, or where public visibility of the entrance of a business or use is limited or impaired, a freestanding banner, supported by a temporary frame, may be placed on-site, between the property line and the building entrance, in a landscaped or paved area.

e. No banner shall project above the eave line of the building.

f. If any part of the banner projects over public property, public right-of-way, or public easement, a minimum vertical clearance of eight feet (8’), measured from grade shall be maintained, provided that an encroachment permit or license agreement has been obtained for said projection.

g. A banner may project a maximum of four feet (4’) from the outer surface of the building (e.g., a banner placed on an awning), provided that it does not project to within two feet (2’) of the curbline of the street or vehicular roadway.

h. If a banner is illuminated, the illumination shall be located and directed so that it does not create glare, or be capable of reflecting light or directing such light onto or into any adjoining or nearby lot, structure or public right-of-way. When spotlights or floodlights are used to illuminate a banner, a reflector shall be provided with proper shields or glass lenses concentrating illumination upon the area of the banner, so as to prevent glare upon the street, sidewalk or adjacent property. Flashing lights that change color or intensity are prohibited. All lighting shall comply with National Electric Code (NEC) requirements.

i. Banners shall be permitted for announcement or advertisement associated with the on-site business or use only. This requirement shall be tenant-specific for multiple-tenant buildings.

j. Banners shall comply with the sign location and placement provisions of the sign ordinance (San Rafael Municipal Code Sections 14.19.053(B) and (C)), which prohibits signs from obstructing exits, windows and safety equipment, and requires that signs maintain adequate sight distance.

k. As regulated by Sections 14.19.080(F), (H) and (L) of this chapter, banners are prohibited from displaying statements, words or pictures that are obscene or offensive to morals, are imitative of official signs, or are likely to cause traffic confusion or traffic hazard.

F. Temporary Construction Signs. Maximum of two (2) in number per site and no more than thirty-six (36) square feet per sign. No illumination is permitted. Examples of such signs include, among others, signs displaying the construction project, the parties involved in the construction, and subdivision or development sales. Such signs are subject to the approval of a sign permit and shall be permitted through the duration of construction and sales and shall be removed no later than one (1) month following completion of construction, or following the last sale. This temporary sign provision does not apply to the required posting of a sign giving notice of the city of San Rafael noise restrictions (Section 8.13.050).

G. Temporary, Portable A-Frame Signs in the Downtown Mixed Use District. The location, placement and provisions for temporary, portable A-frame signs permitted in the downtown mixed use district shall be established by standards and subject to fees, as set forth by resolution of the city council from time to time.

H. Temporary Use Signs. Signs for temporary uses such as but not limited to outdoor, temporary or seasonal sales lots, Christmas tree or pumpkin sales lots. The maximum number of signs, the location and size shall be established with the use permit required for the temporary use, as required by Chapter 14.22. Temporary use signs shall be displayed for the period of time established by the use permit.

I. Temporary Construction or Vacant Storefront Signs. Window film or similar covering that contains an artistic graphic or message may be installed in storefront windows for the purpose of obscuring view into a vacant or under construction tenant space within a building. Temporary window display signs may include a non-commercial display such as artwork or commercial message announcing "under construction", "coming soon", or similar information related to a project under construction. This signage shall be subject to prior review and approval of a temporary sign permit by the community development director to assure that sign content, message size or proposed artwork design, materials, colors, type and duration are appropriate and would enhance the appearance of the streetscape during the period of construction or temporary vacancy. In general, any message content should not exceed twenty-five percent (25%) of available storefront glazing and should not be installed for more than six (6) months (or for the duration of a valid building permit).

(Ord. 1838 § 43, 2005; Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

(Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1996 , div. 2(Exh. A, 9.4), 8-16-2021)

14.19.080 Prohibited signs.

A prohibited sign is a sign that is not permitted under the provisions of this chapter. The city may require the removal or abatement of a prohibited sign. Failure of a property owner to remove or abate a prohibited sign after service by the city of written notification/order to do so shall be deemed a violation of this chapter. The compliance date for prohibited signs shall be set by the community development director or designee, based upon a reasonable amount of time to correct the violation. Notices required to be given in this chapter shall be served on the sign owner or permittee in accordance with the provisions of Section 1.08.060 of this code. The failure of

any person to receive any notice required under this chapter shall not affect the validity of any proceedings concerning violation of this chapter. The following types of signs and devices are prohibited:

A. A-Frame and I-Frame Portable Ground Signs. Except as permitted by city council resolution in the downtown districts, or as permitted for real estate sale and leasing (on-site or off-site display for open house), as set forth in Section 14.19.070;

B. Abandoned Signs. Signs that have been abandoned for a period of six (6) months or more following the closing of a business or use on the site where the sign is located;

C. Animated and Moving Signs. Animated and moving signs include:

1. Electronic message display, blinking, flashing, change in light intensity, or moving signs, except time and temperature signs and community service signs as permitted by Section 14.19.030.I.,

2. Windblown devices such as balloons, inflatable objects, pennants, ribbons, streamers,

3. Signs producing smoke, sound and other substances;

D. Billboards and Similar Off-Site Advertising. Billboards and similar off-site advertising including temporary signs that are placed on or suspended from a vehicle but not including signs painted on or permanently affixed to the body of the vehicle;

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 a business or use, or are in a condition to cause a hazard;

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

G. Natural Despoliation. No sign shall be cut, burnt, limed, painted or otherwise marked on a cliff, hillside, field or tree;

H. Obscene or Offensive to Morals. Signs containing statements, words, or pictures of an obscene, indecent or immoral character, which taken as a whole appeals to prurient interest in sex, and which sign is patently offensive and when taken as a whole, does not have serious literary, artistic, political or scientific value;

I. Portable Signs. Signs that are constructed to roll, slide or be moved from one location to another, except for certain A-frame signs permitted under the provisions of this chapter;

J. Privilege Signs. Standardized signs supplied to a retailer by a manufacturer wherein the manufacturer's name and/or logo or emblem on the sign exceeds one-third of a face of a sign;

K. Roof Signs. Except where permitted as a mansard sign under the provisions of this chapter, signs placed on the roof of a building or structure;

L. Signs Likely to Cause Traffic Confusion or Traffic Hazard. Signs or lighting which are of a size, location, movement, coloring or manner of illumination which:

1. May be confused with or construed as a traffic control device,

2. Will hide from view any traffic or street sign or signal,

3. May not be effectively shielded to prevent glare or where the lighting is of an intensity, which causes glare or impairs the vision of a driver;

M. Signs surfaced with or made of fluorescent paint or material;

N. Signs affixed to public structures and/or signs located in the public right-of-way, including, but not limited to telephone poles, light standards and utility fixtures, posts and fences. Posters, signs, temporary handbills and similar advertising notices are permitted on public kiosks established for such purpose.

(Ord. 1838 § 44, 2005; Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

(Ord. No. 1964 , § 2(Exh. B) § 31, 11-19-2018)

14.19.090 Nonconforming signs.

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 copy and face, nonstructural modifications and nonstructural maintenance are permitted subject to the approval of a sign permit.

C. The following provisions shall apply to nonconforming signs:

1. Any structural modification to or alteration of any nonconforming sign or elements thereof 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 business or use for which the sign identified is discontinued for more than six (6) months.

4. Any nonconforming sign shall be removed or made to conform to the provisions of this chapter if the sign has been more than fifty percent (50%) destroyed and the destruction requires replacement of more than the face of the sign.

5. The city may require the removal of a nonconforming sign maintained, continued, or altered contrary to subsection C of this section. Failure of a property owner to remove or abate such a nonconforming sign within ninety (90) days after service by the city of written notification or order to do so shall be deemed a violation of this chapter. Notices required to be given in this chapter shall be served on the sign owner or permittee in accordance with the provisions of Section 1.08.060 of this code. The failure of any person to receive any notice required under this chapter shall not affect the validity of any proceedings concerning violation of this chapter.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

14.19.100 Violations and enforcement.

It is unlawful for any person to violate any of the provisions of this chapter or to violate any of the terms and conditions of a permit or program issued pursuant to this chapter. Such violations are punishable as provided in Chapters 1.40, 1.42, 1.44 and 1.46

(Code Enforcement and Authority Powers) of the San Rafael Municipal Code, or by any applicable provision of state law.

(Ord. 1825 §§ 1, 2 (Exh. A) (part), 2004).

Division V ADMINISTRATIVE REGULATIONS

Chapter 14.20 ZONING ADMINISTRATOR AUTHORITY

14.20.010 Specific purposes.

This chapter establishes the authority of the zoning administrator, references matters subject to review by the zoning administrator and establishes public notice and hearing procedures for zoning administrator actions.

(Ord. 1625 § 1 (part), 1992).

14.20.020 Zoning administrator authority established.

The office of zoning administrator is created pursuant to Government Code Section 65900. The purpose of the zoning administrator process is to enable less complicated applications to be acted upon in a less costly, more expeditious manner, while still providing the public and applicant full notification of and participation in the zoning review process.

(Ord. 1625 § 1 (part), 1992).

14.20.030 Appointment of the zoning administrator.

The planning director shall appoint the zoning administrator. The zoning administrator shall be an employee of the city of San Rafael's planning department and shall be directly responsible to the planning director while acting in the capacity of zoning administrator.

(Ord. 1625 § 1 (part), 1992).

14.20.040 Actions of the zoning administrator.

The zoning administrator shall hear and have the power to approve, conditionally approve, deny or refer to the planning commission use permits, variances and environmental and design review permits as specified in Chapters 14.22, Use Permits, 14.23, Variances and 14.25, Environmental and Design Review Permits.

(Ord. 1625 § 1 (part), 1992).

14.20.050 Adoption of procedures.

It shall be the duty of the planning director to establish, subject to approval by the planning commission, rules and procedures necessary to process, review, notify, hear and make findings and a determination of the items referred to in Section 14.20.040, Actions of the zoning administrator.

(Ord. 1625 § 1 (part), 1992).

14.20.060 Public notice and hearing on zoning administrator items.

The zoning administrator shall hold a public hearing on applications for use permits, variances or environmental and design review permits, as listed in the corresponding chapters. Notice shall be given consistent with Chapter 14.29, Public Notice.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

14.20.070 Referral to planning commission of zoning administrator items.

When, in the opinion of the planning director, any matter set forth in Section 14.20.040, Actions of the zoning administrator, is of a size, importance or unique nature such that it is judged not to be a routine matter, it may be placed directly on the agenda of the planning commission for determination in lieu of having it processed by the zoning administrator.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.21 ADMINISTRATIVE USE PERMITS

14.21.010 Specific purposes.

Administrative use permits allow certain uses to be established in particular zoning districts if they comply with the specific criteria and performance standards as established in Chapter 14.17, Performance Standards, and other standards as required elsewhere in this title. Administrative use permits are intended to streamline the use permit process for select uses where clear performance standards are established and extensive public review is not warranted. The performance standards established in Chapter 14.17, Performance Standards, are designed to ensure that proposed uses will be compatible and harmonious with existing uses in the neighborhood.

(Ord. 1625 § 1 (part), 1992).

14.21.020 Applicability.

Uses identified in the Land Use Tables as "A" shall be subject to administrative use permit review.

(Ord. 1838 § 45, 2005: Ord. 1694 § 1 (Exh. A) (part), 1996: Ord. 1625 § 1 (part), 1992).

14.21.030 Authority.

The planning director may approve, conditionally approve or deny an administrative use permit application, unless otherwise restricted by state law. Development must comply with all of the required standards in Chapter 14.17, Performance Standards, and with all other requirements of Title 14 unless specifically exempted in Chapter 14.17.

(Ord. 1625 § 1 (part), 1992).

14.21.040 Referral to planning commission.

When, in the opinion of the planning director, any matter set forth in Section 14.21.020, Applicability, is of a size, importance or unique nature such that it is judged not to be a routine matter, it may be placed directly on the

agenda of the planning commission for determination in lieu of having it processed by the planning director. Requests for modifications from performance standards of Chapter 14.17, Performance Standards, will be referred to the planning commission for review and determination.

(Ord. 1625 § 1 (part), 1992).

14.21.050 Application.

Applications for administrative use permits shall be initiated by submitting the following information to the planning department: a completed application form, signed by the property owner or authorized agent, accompanied by the required fee, and any other information, plans or maps prescribed by the planning director. Application procedures and processing timeframes shall be in accordance with state law and procedural guidelines established by the planning director.

(Ord. 1625 § 1 (part), 1992).

14.21.060 Public notice and hearing.

Public notice and/or hearing are not required for issuance of an administrative use permit.

(Ord. 1625 § 1 (part), 1992).

14.21.070 Conditions of approval.

The planning director or the planning commission may apply reasonable conditions of approval to bring the development into conformity with requisite performance standards.

(Ord. 1625 § 1 (part), 1992).

14.21.080 Findings.

The planning director or the planning commission may issue an administrative use permit if the following findings can be made:

A. The proposed use is listed in this chapter as a use permitted pursuant to an administrative use permit and subject to performance standards;

B. The proposed use as conditioned conforms to the performance standards for the proposed use as outlined in Chapter 14.17, Performance Standards;

C. The physical location or placement of the use on the site is compatible with and relates harmoniously to the surrounding uses in the neighborhood;

D. Any other findings required under Chapter 14.17, Performance Standards, for the specific use;

E. The use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the city;

F. That the use, as conditioned, will be compatible with surrounding uses.

(Ord. 1625 § 1 (part), 1992).

14.21.090 Notice of decision.

The planning director shall prepare a written decision which shall contain the findings of fact upon which such decision is based and conditions of approval, if any. The decision shall be mailed to the applicant.

(Ord. 1625 § 1 (part), 1992).

14.21.100 Appeals.

Appeals of decisions on administrative use permits shall be filed within five (5) working days of the issuance of the permit. Appeals shall be filed and processed in accordance with Chapter 14.28, Appeals.

(Ord. 1625 § 1 (part), 1992).

14.21.110 Effective date of permit.

An administrative use permit shall become effective at the end of the appeal period as specified in Chapter 14.28, Appeals, unless appealed.

(Ord. 1625 § 1 (part), 1992).

14.21.120 Approval to run with the land.

Any administrative use permit approval shall run with the land and shall continue to be valid for the time frame specified whether or not there is a change of ownership of the site or structure to which it applies.

(Ord. 1625 § 1 (part), 1992).

14.21.130 Extensions.

An administrative use permit may be extended by the planning director if the findings required by Section 14.21.080, Findings, remain valid and application is made prior to expiration.

(Ord. 1625 § 1 (part), 1992).

14.21.140 Amendments—New application.

Requests for changes in the conditions of approval of an administrative use permit, or a change to site plans or operation that would affect a condition of permit approval, shall be treated as an administrative use permit amendment. The procedures for filing and processing an application for an administrative use permit amendment shall be the same as those established for an initial or new administrative use permit application.

(Ord. 1625 § 1 (part), 1992).

14.21.150 Revocation.

An administrative use permit that is exercised in violation of a condition of approval or a provision of this title may be revoked, as provided in Chapter 14.29, Enforcement.

(Ord. 1625 § 1 (part), 1992).

14.21.160 New applications following denial or revocation.

If an application for an administrative use permit is denied or revoked, no new application for the same, or substantially the same, administrative use permit shall be filed within one year of the date of denial or revocation of the initial application, unless the denial is made without prejudice.

(Ord. 1625 § 1 (part), 1992).

14.21.170 Expiration.

Administrative use permits are valid for one year unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed and extended.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.22 USE PERMITS

14.22.010 Specific purposes.

Use permits are required for uses which may be suitable only in specific locations in a zoning district or which require special consideration in their design, operation or layout to ensure compatibility with surrounding uses.

(Ord. 1625 § 1 (part), 1992).

14.22.020 Authority.

A. The zoning administrator shall approve, conditionally approve or deny applications for conditional use permits identified in the Land Use Tables as CZ use permits. The planning commission shall approve, conditionally approve or deny applications for conditional use permits identified in the Land Use Tables as C use permits.

B. When, in the opinion of the community development director, any matter set forth in Section 14.22.020.A of this chapter or in the land use regulation tables listed in each of the zoning districts regulated by this title:

   1. Is deemed to be an insignificant or inconsequential change in use;

   2. Will not have a detrimental impact on surrounding properties; and

   3. Is not a use warranting the designated level of review, the use permit application may be processed and acted on by the zoning administrator.

In cases where the zoning administrator takes action on a use permit application that would typically be reviewed and acted on by the planning commission, the planning commission shall be informed of the pending action through receipt of the public hearing notice. The public hearing notice shall indicate that the use permit review is being delegated from the planning commission to the zoning administrator for action, and that a request may be made to refer the matter back to the planning commission for action. Prior to an action by the zoning administrator, a planning commissioner may direct, or a member of the public may request, that the application be referred to the planning commission for a public hearing and action.

(Ord. 1831 § 1 (part), 2004: Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 76, 6-21-2010)

14.22.030 Application.

Applications for use permits shall be initiated by submitting the following information to the planning department: a completed application form, signed by the property owner or authorized agent, accompanied by the required fee, and any other information, plans or maps prescribed by the planning director. Application procedures and processing timeframes shall be in accordance with state law and procedural guidelines established by the planning director.

(Ord. 1625 § 1 (part), 1992).

14.22.040 Master use permits.

Master use permits may be filed for development where there are multiple uses or tenants on a given site, or for temporary programs which involve multiple sites (rotating programs). Master use permits shall be processed in accord with all of the provisions of Chapter 14.22.

(Ord. 1625 § 1 (part), 1992).

14.22.050 Multiple applications.

When multiple permit applications are filed for a given development or site (for example, in the case of a development which requires a use permit, environmental and design review permit and a variance) the planning director may schedule combined hearings.

(Ord. 1625 § 1 (part), 1992).

14.22.060 Public notice and hearing.

A. Public Hearing. The zoning administrator or planning commission, as the case may be, shall hold a public hearing on an application for a use permit.

B. Notice of public hearings shall be given consistent with Chapter 14.29, Public Notice.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

14.22.070 Conditions of approval.

In approving a use permit the zoning administrator or planning commission may impose reasonable conditions.

(Ord. 1625 § 1 (part), 1992).

14.22.080 Findings.

The zoning administrator or planning commission may issue a use permit if the following findings can be made:

A. That the proposed use is in accord with the general plan, the objectives of the zoning ordinance, and the purposes of the district in which the site is located;

B. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the city;

C. That the proposed use complies with each of the applicable provisions of the zoning ordinance.

(Ord. 1625 § 1 (part), 1992).

14.22.090 Notice of decision.

The zoning administrator or planning commission shall prepare a written decision which shall contain the findings of fact upon which such decision is based and conditions of approval, if any. The decision shall be mailed to the applicant.

(Ord. 1625 § 1 (part), 1992).

14.22.100 Effect of failure to give notice.

No action, inaction or recommendation regarding any development by the zoning administrator or planning commission shall be held void or invalid or be set aside by any court by reason of error or omission pertaining to the notices, including the failure to give any notice required by this section, unless the court after an examination of the entire case, shall be of the opinion that the error or omission complained of was prejudicial, and that by reason of such error or omission the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error or omission had not occurred or existed. There shall be no presumption that the error or omission is prejudicial or that injury was done if error or omission is shown.

(Ord. 1625 § 1 (part), 1992).

14.22.110 Appeals.

Appeals of zoning administrator or planning commission use permit determinations shall be filed and processed in accordance with Chapter 14.28, Appeals.

(Ord. 1625 § 1 (part), 1992).

14.22.120 Effective date of permit.

A use permit shall become effective at the end of the appeal period as specified in Chapter 14.28, Appeals, unless appealed.

(Ord. 1625 § 1 (part), 1992).

14.22.130 Approval to run with the land.

Any use permit approval shall run with the land and shall continue to be valid for the time period specified whether or not there is a change of ownership of the site or structure to which it applies.

(Ord. 1625 § 1 (part), 1992).

14.22.140 Extensions.

A use permit may be extended by the zoning administrator if the findings required by Section 14.22.080, Findings, remain valid and application is made prior to expiration.

(Ord. 1625 § 1 (part), 1992).

14.22.150 Amendments—New application.

Requests for changes in the conditions of approval of a use permit, or a change to site plans or operation that would affect a condition of approval, shall be treated as a use permit amendment. Applications for use permit amendments shall be heard and decided by the original hearing body. The planning director may make a determination that a use permit amendment may be heard by the zoning administrator rather than the original hearing body if the director finds that the changes involved are minor, noncontroversial and will not alter the basic function of the approved use. The procedures for filing and processing an application for a use permit amendment shall be the same as those established for an initial or new use permit application.

(Ord. 1625 § 1 (part), 1992).

14.22.160 Revocation.

A use operated in violation of a condition of permit approval or a provision of this title may be revoked, as provided in Chapter 14.30, Enforcement.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 77, 6-21-2010)

14.22.170 New applications following denial or revocation.

If an application for a use permit is denied or revoked, no new application for the same, or substantially the same, use permit shall be filed within one year of the date of denial or revocation of the initial application, unless the denial is made without prejudice.

(Ord. 1625 § 1 (part), 1992).

14.22.180 Expiration.

Use permits are valid for two (2) years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one (1) phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. C, 5.1), 8-6-2021)

Chapter 14.23 VARIANCES

14.23.010 Specific purposes.

The purpose of this chapter is to provide flexibility from the strict application of development standards consistent with the purposes of this title. Variances are intended to resolve practical difficulties or unnecessary hardships resulting from the strict application of development standards when special circumstances pertaining to the land such as size, shape, topography or location deprives such property of privileges enjoyed by other property in the vicinity and in the same zoning district. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which such property is situated.

(Ord. 1625 § 1 (part), 1992).

14.23.020 Authority.

The zoning administrator shall hear all variance applications except variances applications that are a part of a project being heard at a higher level; however, when in the opinion of the planning director, any matter that is judged not to be routine matter, shall be heard by the planning commission.

(Ord. 1663 § 1 (part), 1994: Ord. 1625 § 1 (part), 1992).

14.23.030 Application.

Applications for variances shall be initiated by submitting the following information to the planning department: a completed application form signed by the property owner or authorized agent and accompanied by the required fee, and any other information, plans or maps prescribed by the planning director. Application procedures and processing timeframes shall be in accordance with state law and procedural guidelines established by the planning director.

(Ord. 1625 § 1 (part), 1992).

14.23.040 Multiple applications.

When multiple permit applications are filed for a given development or site (for example, in the case of a development which requires a use permit, environmental and design review permit and a variance) the planning director may schedule combined hearings.

(Ord. 1625 § 1 (part), 1992).

14.23.050 Public notice and hearing.

A. Public Hearing Required. The zoning administrator or planning commission, as the case may be, shall hold a public hearing on an application for a variance.

B. Notice of public hearings shall be given consistent with Chapter 14.29, Public Notice.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

14.23.060 Conditions of approval.

In approving a variance the zoning administrator or planning commission may impose reasonable conditions.

(Ord. 1625 § 1 (part), 1992).

14.23.070 Findings.

The zoning administrator or planning commission may approve an application for a variance if the following findings can be made:

A. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the requirements of this title deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification;

B. That the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which such property is situated;

C. That granting the variance does not authorize a use or activity which is not otherwise expressly authorized by the zoning regulations for the zoning district in which the subject property is located;

D. That granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.

The zoning administrator or planning commission may approve an application for a variance from the parking standards of this title in order that some or all of the required parking spaces be located off-site, or that in-lieu fees or facilities be provided instead of the required parking spaces, if, in addition to subsections (A) through (D) of this section, both of the following findings can be met:

E. The variance will be an incentive to, and a benefit for, the nonresidential development; and,

F. The variance will facilitate access to the nonresidential development by patrons of public transit facilities.

(Ord. 1625 § 1 (part), 1992).

14.23.080 Notice of decision.

The zoning administrator or planning commission shall prepare a written decision which shall contain the findings of fact upon which such decision is based and conditions of approval, if any. The decision shall be mailed to the applicant.

(Ord. 1625 § 1 (part), 1992).

14.23.090 Effect of failure to give notice.

No action, inaction or recommendation regarding any development by the zoning administrator or planning commission shall be held void or invalid or be set aside by any court by reason of error or omission pertaining to the notices, including the failure to give any notice required by this section, unless the court after an examination of the entire case shall be of the opinion that the error or omission complained of was prejudicial, and that by reason of such error or omission, the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error or omission had not occurred or existed. There shall be no presumption that error or omission is prejudicial or that injury was done if error or omission is shown.

(Ord. 1625 § 1 (part), 1992).

14.23.100 Appeals.

Appeals of zoning administrator or planning commission determinations on variance applications shall be filed and processed in accordance with Chapter 14.28, Appeals.

(Ord. 1625 § 1 (part), 1992).

14.23.110 Effective date of permit.

A variance shall become effective at the end of the appeal period as specified in Chapter 14.28, Appeals, unless appealed.

(Ord. 1625 § 1 (part), 1992).

14.23.120 Approval to run with the land.

Any variance approval shall run with the land and shall continue to be valid for the time period specified whether or not there is a change of ownership of the site or structure to which it applies.

(Ord. 1625 § 1 (part), 1992).

14.23.130 Extensions.

A variance may be extended by the zoning administrator if the findings required by Section 14.23.070, Findings, remain valid and application is made prior to expiration.

(Ord. 1625 § 1 (part), 1992).

14.23.140 Amendments—New application.

A request for changes in conditions of approval of a variance, or a change to plans that would affect a condition of approval, shall be treated as a new application unless the zoning administrator finds that the changes to the approved plans are noncontroversial, minor, do not involve substantial alterations or additions to the plans and are consistent with the intent of the original approval.

(Ord. 1625 § 1 (part), 1992).

14.23.150 Revocation.

A variance that is exercised in violation of a condition of approval or a provision of this title may be revoked, as provided in Chapter 14.30, Enforcement.

(Ord. 1625 § 1 (part), 1992).

14.23.160 New applications following denial or revocation.

If an application for a variance is denied or revoked, no new application for the same, or substantially the same, variance shall be filed within one year of the date of denial or revocation of the initial application, unless the denial is made without prejudice.

(Ord. 1625 § 1 (part), 1992).

14.23.170 Expiration.

Variances are valid for two (2) years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one (1) phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. C, 6.1), 8-6-2021)

Chapter 14.24 EXCEPTIONS

14.24.010 Specific purposes.

The purpose of this chapter is to provide flexibility in the application of selected site development regulations where minor adjustments are needed. Exceptions shall only be granted for the site development standards cited in Section 14.24.020, Authority. Exceptions granted shall be compatible with adjoining uses and consistent with the purposes of this title and the specific zoning district in which the subject property is located.

(Ord. 1625 § 1 (part), 1992).

14.24.020 Authority.

The planning director shall approve, conditionally approve or deny applications for exceptions. The planning director shall review and decide the following types of exceptions to site development standards which may be allowed:

A. Fence Height.

1. In any residential district, the maximum height of any side or rear yard fence may be increased by a maximum of two feet (2′), where topography of sloping sites or a difference in grade between adjoining sites warrants such increase in height to maintain a level of privacy or effectiveness of screening as generally provided by any such fence in similar circumstances.

2. In any residential district, the maximum height of any front yard or street side yard fence may be increased by a maximum of two feet (2') to prevent access to natural or physical hazardous conditions either on the lot or on an adjacent lot.

B. Setbacks. The minimum front setback may be decreased by not more than ten percent (10%) and the side setback may be decreased by not more than one foot in the R5 district. The minimum front and side setbacks may be decreased by not more than 2.5 feet in the R7.5 district, and by not more than five feet (5′) in the R10, R20, R1a and R2a districts. In any of the above-listed districts, the side setback shall not be decreased to less than three feet (3′). Rear yard setbacks may be decreased by not more than ten percent (10%) in any residential district. Setback exceptions shall only be allowed where the proposed setback area or yard is in character with the surrounding neighborhood and is not required as an essential open space or recreational amenity to the use of the site, and where such decrease will not unreasonably affect abutting sites.

C. Lot Coverage.

1. In any residential district, the maximum lot coverage may be increased by not more than ten percent (10%) of the lot area, where such increases are necessary for significantly improved site planning or architectural design, creation or maintenance of views, or otherwise facilitate highly desirable features or amenities, and where such increases will not unreasonably affect abutting sites.

2. For single-family residences situated in any residential district, an addition of up to one hundred (100) square feet of floor area may be permitted in conjunction with a request for an environmental and design review permit for a "lift and fill" addition (i.e., raising an existing habitable floor space to permit the creation of a new, single habitable floor area below), irrespective of the maximum lot coverage restriction of the zoning district, where the planning director determines that the floor area addition is necessary to permit circulation between the resultant stories of habitable floor space. This exception shall not be available in conjunction with an exception pursuant to subsection (C)(1) of this section.

D. Maximum Upper-Story Floor Area. For single-family residences situated in any residential district, an addition of up to one hundred (100) square feet of floor area may be permitted in conjunction with a request for an environmental and design review permit for a "lift and fill" addition (i.e., raising an existing habitable floor space to permit the creation of a new, single habitable floor area below), irrespective of the maximum upper-story floor area restriction of the zoning district, where the planning director determines that the floor area addition is necessary to permit circulation between the resultant stories of habitable floor space.

E. Height. In all nonresidential zoning districts, except the R/O district, building height may be increased beyond the height limit where: (1) additional building height is required for a special use or function, and the building is designed specifically for that use; or (2) there are special circumstances related to the site and topography which warrant the exception. For a public or quasi-public structure, a higher height may be permitted where necessary for health or safety purposes. In addition, in all cases, nonresidential height exceptions may only be approved where scenic views are not adversely affected, and where exceptional design is provided. If the height exception is more than five feet (5'), the exception must be approved by the planning commission as part of approval of an environmental and design review permit.

F. Landscaping.

1. In multifamily residential districts, required buffer landscaping may be modified~~, subject to review by the design review board~~, where innovative landscape design is proposed, where there are special circumstances related to the site and where such modifications will ensure an adequate buffer for adjacent properties.

2. In all nonresidential districts, the minimum landscaping percentages may be reduced for remodel projects~~, subject to review by the design review board~~, where redevelopment or remodeling is proposed and existing conditions are such that complying with the standard make it infeasible to provide adequate parking.

G. Parking.

1. Minimum driveway width for a residential use may be reduced, subject to review by the traffic engineer and the fire department. Driveway exceptions shall only be allowed where such decrease will not unreasonably affect abutting sites or create a hazardous traffic condition, and where there are special circumstances related to existing site conditions.

2. Minimum aisle width may be reduced, subject to review by the traffic engineer. Aisle width exceptions shall only be allowed where such decrease will not create a hazardous traffic

condition, and where such reduction is necessary to provide for additional parking where existing parking does not meet current standards.

3. In downtown residential or non-residential projects, tandem parking may be allowed, subject to review by the traffic engineer and the fire department, where necessary to accommodate the required parking spaces, provided that the tandem spaces are assigned to the same unit or tenant and that the spaces are located convenient to the unit.

4. In any single-family residential district, a recreational vehicle may be parked parallel to the residence in the front yard where there is a curved or circular driveway or where there are special and unique circumstances on the site because of topography or lot shape. Recreational vehicle parking exceptions shall only be allowed where such parking is set back fifteen feet (15') from the front property line and where it will not have an adverse visual impact on adjoining lots or lots across the street.

(Ord. 1838 § 46, 2005: Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 78, 6-21-2010; Ord. No. 1964 , § 2(Exh. B) § 32, 11-19-2018)

14.24.030 Application.

Applications for exceptions shall be initiated by submitting the following information to the planning department: a completed application form signed by the property owner or authorized agent, accompanied by the required fee, and any other information, plans or maps prescribed by the planning director.

(Ord. 1625 § 1 (part), 1992).

14.24.040 Public notice and hearing.

In cases involving building height exceptions for nonresidential buildings, the proposed exception shall be reviewed, noticed and heard with the related development applications by the planning commission and/or city council. In the case of all other types of exceptions, no public notice or hearing shall be required.

(Ord. 1625 § 1 (part), 1992).

14.24.050 Conditions of approval.

In approving an exception, the planning director may impose reasonable conditions.

(Ord. 1625 § 1 (part), 1992).

14.24.060 Findings.

The planning director may approve an application for an exception if the following findings can be made:

A. That there are special circumstances applicable to the property or land use, including but not limited to the size, shape, topography, location or surroundings that warrant granting of a minor exception from the strict application of the standards in this title;

B. That granting the exception will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.

(Ord. 1625 § 1 (part), 1992).

14.24.070 Notice of decision.

The planning director shall prepare a written decision which shall contain the findings of fact upon which such decision is based and conditions of approval, if any. The decision shall be mailed to the applicant.

(Ord. 1625 § 1 (part), 1992).

14.24.080 Appeals.

Appeals of the planning director's determinations on requests for exceptions shall be filed and processed in accordance with Chapter 14.28, Appeals.

(Ord. 1625 § 1 (part), 1992).

14.24.090 Effective date of permit.

A. An exception shall become effective on the date specified by the written decision by the planning director granting the exception. Such approval date shall indicate the planning director's approval only of the exception and does not eliminate or replace the need to secure a building permit prior to any construction activity.

B. The rights granted by the exception shall be effective only when exercised within the time period established as a condition of granting the exception, or, in the absence of such established time period, one year from the date the permit becomes effective.

(Ord. 1625 § 1 (part), 1992).

14.24.100 Approval to run with the land.

Once exercised, any exception granted shall run with the land and shall continue to be valid upon a change of ownership of the site or structure to which it applies.

(Ord. 1625 § 1 (part), 1992).

14.24.110 Extensions.

An exception may be extended by the planning director if the findings required by Section 14.24.060, Findings, remain valid and application is made prior to expiration.

(Ord. 1625 § 1 (part), 1992).

14.24.120 Amendments—New application.

A request for a change in the conditions of approval of an exception, or changes to plans which would affect a condition of approval, shall be treated as a new application for an exception.

(Ord. 1625 § 1 (part), 1992).

14.24.130 Revocation.

An exception that is exercised in violation of a condition of approval or a provision of this title may be revoked, as provided in Chapter 14.29, Enforcement.

(Ord. 1625 § 1 (part), 1992).

14.24.140 New applications following denial or revocation.

If an application for an exception is denied or revoked, no new application for the same, or substantially the same, exception shall be filed within one year of the date of denial or revocation of the initial application, unless the denial is made without prejudice.

(Ord. 1625 § 1 (part), 1992).

14.24.150 Expiration.

Exceptions are valid for two (2) years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one (1) phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. C, 7.1), 8-6-2021)

Chapter 14.25 ENVIRONMENTAL AND DESIGN REVIEW PERMITS

14.25.010 Specific purposes.

Environmental and design review implements general plan policies concerning the environment and design by guiding the location, functions and appearance of development. The key environmental and design goal of the city is to respect and protect the natural environment and assure that development is harmoniously integrated with the existing qualities of the city. The purposes of environmental and design review are to:

A. First and foremost, maintain a proper balance between development and the natural environment;

B. Ensure that the location, design and materials and colors of development blends with and enhances the natural setting;

C. Maintain and improve the quality of, and relationship between, development and the surrounding area to contribute to the attractiveness of the city;

D. Preserve balance and harmony within neighborhoods;

E. Promote design excellence by encouraging creative design and the innovative use of materials and methods and techniques;

F. Preserve and enhance views from other buildings and public property;

G. Ensure the right to make residential additions and modifications which minimize the impact on adjacent residences and which are designed to be compatible with the existing residence and neighborhood.

H. Ensure superior urban design and the protection of historic resources in the downtown mixed use district, as stipulated in and promoted by the vision of the Downtown San Rafael Precise Plan and Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. A, 10.1), 8-16-2021)

14.25.020 Authority.

The planning commission, zoning administrator or community development director shall approve, conditionally approve or deny applications for environmental and design review permits. This authority is identified as follows:

A. Major Environmental and Design Review Permit. The planning commission shall make determinations on environmental and design review applications for any major physical improvement listed under Section 14.25.040(A).

B. Minor Environmental and Design Review Permit. The zoning administrator shall make determinations on environmental and design review applications for any minor physical improvement listed under Section 14.25.040(B), and one-time extensions to major and minor environmental and design review permit approvals~~. When, in the opinion of the zoning administrator, an applicant or a member of the public, any matter set forth in Section 14.25.040(B) does not meet the applicable review criteria set forth in Section 14.25.050, the application shall be forwarded to the design review board for its recommendation. Requests for referral to the design review board made by an applicant or member of the public must be made in writing within the public review period and prior to the conclusion of the zoning administrator's public hearing, and must set forth specific reasons why it is believed that the proposed design does not meet the applicable review criteria.~~

C. Administrative Environmental and Design Review Permit. The community development director shall make determinations on environmental and design review applications for administrative design review, as listed under Section 14.25.040(C), and one-time extensions to administrative environmental and design review permit approvals. Applications which clearly meet the applicable review criteria may be approved over the counter, at the discretion of the community development director.

D. Elevated Level of Review. When, in the opinion of the community development director, any matter set forth in Section 14.25.040(B) or (C) is of a size, importance or unique nature such that it is judged not to be a routine matter, it may be placed directly on the agenda of the planning commission for determination in lieu of having it processed by the zoning administrator or community development director.

E. Reduced Level of Review. When, in the opinion of the community development director, any matter set forth in Section 14.25.040(A) or (B) of this chapter is insignificant or inconsequential, will have no detrimental impact on surrounding properties or public vantage points, and is not a matter requiring the designated level of review, it may be processed by the zoning administrator or community development director. In cases where the zoning administrator or community development director process an application that would normally be reviewed by the planning commission, the planning commission shall be informed of the pending action through receipt of the public hearing notice. The public hearing notice shall indicate that the design review permit review is being delegated from the planning commission to the zoning administrator or community development director for action, and

that a request may be made to refer the matter back to the planning commission for action. Prior to an action by the zoning administrator or community development director, a planning commissioner may direct, or a member of the public may request, that the application be referred to the planning commission for a public hearing and action.

(Ord. 1838 § 47, 2005; Ord. 1820 § 2, 2004; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 79, 6-21-2010)

14.25.030 Application.

A. Initial Consultation. An initial consultation may be initiated by requesting an appointment with the community development director or a designated representative. Sketches of the design of a proposed structure or alteration should be submitted for informal staff review so that an applicant may be informed of environmental and design review ~~board~~ policies of the City prior to preparing detailed drawings.

~~B. Conceptual Review Required. The applicant of a development subject to major environmental and design review shall submit an application for conceptual review by the design review board. Conceptual review focuses on the conceptual design approach, and gives both the design review board and the applicant the opportunity to work together to achieve a quality design by providing an opportunity for the board to identify and discuss relevant issues and indicate the appropriateness of the design approach. Submittal materials shall include a site plan, floor plans and building elevations with sufficient detail to convey the proposed design direction. The applicant's presentation should have a level of detail adequate to show the architect's analysis of the problem and to explain the proposed design solution. Conceptual review is optional for development subject to minor environmental design review.~~

B~~C~~. Application for Environmental and Design Review. Applications for environmental and design review permits shall be initiated by submitting to the community development department a completed application form, signed by the property owner or authorized agent, accompanied by the required fee, and the following information. (Note: All residential projects located in the hillside development district or on lots with slopes over twenty-five percent (25%) shall submit the information required in Appendix A, Environmental and Design Review Application Requirements for Hillside Residential Development Projects, of the Hillside Residential Design Guidelines Manual.) The community development director may require that additional information be submitted or may waive the submission of listed information.

1. Contextual map showing the relationship of the proposed development to the surrounding buildings and site features;
2. Natural features map providing detailed information about on-site features, including existing trees and other vegetation, and the impact of the development on existing site conditions;
3. Site plan(s) showing proposed parking, loading, circulation, drainage facilities and utility connections;
4. Landscape plan showing all existing and proposed improvements, location of proposed plantings, landscape material and structures, and community amenities. For projects that are required to provide water-efficient landscapes pursuant to Section 14.16.370 of this title, the landscape plan and supportive materials shall comply with Marin Municipal Water District (MMWD) Ordinance No. 414 (including any subsequent amendments).
5. Grading plan showing existing and proposed contours, the extent of cut and fill, and erosion control methods;
6. Building elevations including exterior materials and colors, and showing all sides of the structures;
7. Floor and roof plans;

8. Phasing plan, if proposed;

9. Site photographs showing site and adjacent properties;

10. Shadow diagram if deemed necessary to evaluate potential shading of adjacent properties;

11. Story poles reflecting the proposed height of the structure(s) if needed to evaluate project impacts.

12. All existing street frontage improvements, if applicable, and any proposed modifications to public improvements, including any proposed or required street tree removal or planting.

C~~D~~. Multiple Applications. When multiple permit applications are filed for a given development or site (for example, in the case of a development which requires a use permit, environmental and design review permit and a variance) the community development director may schedule combined hearings.

(Ord. 1838 § 48, 2005; Ord. 1820 § 3, 2004; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, §§ 80—82, 6-21-2010)

14.25.040 Improvements subject to review.

No improvement subject to environmental and design review shall hereafter be constructed, located, repaired, altered, expanded or thereafter maintained, except in accordance with a design approved as provided in this chapter. The following items shall be subject to environmental and design review permits, whether or not a building permit is required.

A. Major Physical Improvements.

1. New construction on vacant property, including, but not limited to:

a. Any residential structure located within one hundred (100) vertical feet of a ridgeline,

b. Residential structures with three (3) or more dwelling units, and boarding houses,

c. Residential structures as required by subdivision or zoning approvals,

d. Offices, retail and industrial structures,

e. Public, quasi-public, religious, social and similar community structures,

f. Marinas and yacht clubs;

2. Modifications to existing structures, including, but not limited to:

a. Additions to multifamily residential structures with three (3) or more units, where the addition constitutes more than forty percent (40%) of the total square footage of the building,

b. Additions and alterations to existing nonresidential structures where the addition is greater than forty percent (40%) of the existing square footage. (Note: The community development director may determine that an addition or alteration greater than forty percent (40%) which has a minor impact on the visual character or function of a building is subject to a minor design review permit.),

c. Relocation of a nonresidential structure, or of a residential structure with three (3) or more existing dwelling units.

3. Major site design improvements, including but not limited to:

a. Subdivisions located on properties with an average slope of twenty-five percent (25%) or greater, or with a general plan land use designation of hillside residential or hillside resource residential,

b. Cutting of one thousand (1,000) or more cubic yards per site per year, or fill of two thousand (2,000) or more cubic yards per site per year. (Exempt: Where removal is being done in accordance with an approved and legally effective tentative and/or final subdivision map, and a legally effective building permit.) (Note: A use permit is also required where the principal use proposed is cutting or filling.),

c. Landscaping as part of a development subject to major environmental and design review,

d. Circulation and parking and loading facilities for pedestrians, bicycles and motor vehicles on a development subject to major environmental and design review,

e. Signs for a development subject to environmental and design review. The sign permit application shall be reviewed for location, size and type of signs concurrently with the design review application. See Chapter 14.19, Signs;

4. Development subject to review as a major physical improvement pursuant to any other provision of this title;

5. Mural signs painted on the exterior surface of a wall of an existing or new structure;

6. Wireless telecommunications facility, as prescribed under Section 14.16.360.B.

B. Minor Physical Improvements.

1. For minor projects located in the downtown mixed use district, refer to the Downtown San Rafael Precise Plan and Form-Based Code which is adopted by separate ordinance.

2. New construction and modifications, including, but not limited to:

a. Any new residence or residential additions over five hundred (500) square feet in size, or any modification that increases the height of the roofline, when located on residential lots with average slopes of twenty-five percent (25%) or greater or located in the hillside resource residential and hillside residential general plan land use designations.

b. Any addition or modification that results in lifting the existing ground level floor of a residence to construct a new ground level floor (lift and fill) located on single-family or duplex residential lots (See Section 14.25.050.F.6. for design criteria).

c. Accessory structures, or additions or modifications to any residential structure located within one hundred (100) vertical feet of a ridgeline when such improvement increases the height of a roofline, or increases building scale and mass and is determined to be visible from off-site.

d. Additions to multifamily residential structures containing three (3) or more dwelling units, where the addition constitutes forty percent (40%) or less than the total square footage of the building.

e. New two-story single-family and duplex residential structures proposing an upper story level over five hundred (500) square feet in size (See Section 14.25.050.F.6. for design criteria).

f. Upper-story additions to single-family and duplex residential structures over five hundred (500) square feet in size (See Section 14.25.050.F.6. for design criteria).

g. Accessory structures on developed non-residential properties over one hundred twenty (120) square feet in size.

h. Accessory structures on developed multi-family residential properties over two hundred forty (240) square feet in size.

i. New construction or reconstruction of boat docking facilities,

j. Additions and alterations to existing nonresidential structures and/or additions to existing nonresidential structures where the addition is forty percent (40%) or less of the existing square footage and no greater than one thousand two hundred fifty (1,250) square feet. Based on the scope and potential impact of the change(s), the level of review may be decreased by the community development director.

k. Structures over the height limit, including flagpoles, aboveground utility distribution facilities, including communications towers and public water tanks, windmills, monuments, steeples, cupolas, and screens for mechanical equipment (chimneys are exempt).

l. Wireless communications facilities, as prescribed under Chapter 14.16.360.B.

3. Minor site design improvements, including, but not limited to:

a. Cutting of more than fifty (50) cubic yards and less than one thousand (1,000) cubic yards per site per year, or fill more than fifty (50) cubic yards and less than two thousand (2,000) cubic yards per site per year. (Exempt: Where removal is being done in accordance with an approved and legally effective tentative and/or final subdivision map, and a legally effective building permit.) (Note: A use permit is also required where the principal use proposed is cutting or filling.).

b. Landscaping, exterior lighting, fencing, and retaining walls over four feet (4') high, proposed as part of a minor physical improvement subject to environmental and design review.

c. Landscape revisions determined to be minor revisions to an existing hillside residential, multifamily or nonresidential development, proposed as part of a minor physical improvement.

d. Parking and loading areas, including driveways, sidewalks and curb cuts, on a development subject to minor environmental and design review,

e. Commercial parking lots, including private parking and new parking locations for uses with insufficient parking.

f. Drive-Through Facilities. See Section 14.16.110, Drive-through facilities, of this title, for regulations.

g. Signs for a development subject to environmental and design review. The sign permit application shall be reviewed for location, size and type of signs concurrently with the design review application. See Chapter 14.19, Signs, of this title.

4. Development subject to review as a minor physical improvement pursuant to any other provision of this title.

C. Administrative Design Permits.

1. For projects located in the downtown mixed use district that are subject to administrative design review, refer to the Downtown San Rafael Precise Plan and Form-Based Code which is adopted by separate ordinance.

2. Decks, or additions to existing decks, higher than thirty inches (30") above grade, located on residential lots with average slopes of twenty-five percent (25%) or greater or located in the hillside resource residential and hillside residential general plan land use designations, except no review is required for decks:

    a. Less than a total of one hundred (100) square feet,

    b. Not visible from the public street or adjacent properties, or

    c. Replacing an existing elevated deck with a deck of same size and configuration.

3. New single-family residences located on a flag lot.

4. New one-story duplexes, or ground floor additions over five hundred (500) square feet in size or that include addition of a bedroom.

5. Conversion of a single-family residence to a duplex.

6. Design changes to projects that previously obtained design review approval. This includes modifications to upper story additions, modifications to windows or architectural, site design or landscaping changes. Based on the scope and potential impact of the change(s), the level of review may be increased by the community development director.

7. Outdoor eating areas (as prescribed by Section 14.17.110).

8. Minor exterior alterations to a structure or development, which are subject to environmental and design review, that, in the opinion of the community development director, have minimal impacts on the visual character or function of the building or development.

9. Satellite dishes over the height limit in a multifamily or nonresidential district.

10. Residential fences over seven feet (7') in height, and as set forth under the criteria in Section 14.16.140.

11. Nonresidential fencing over seven feet (7') in height as set forth under Section 14.16.160 proposed to be located in a front yard or between the principal building and public street frontage(s).

12. Detached accessory structures located on hillside residential lots with slopes of twenty-five percent (25%) or greater or located in areas with a general plan land use designation of hillside residential or hillside resource residential.

13. Retaining walls over four feet (4') in height (measured from the top of the footing or finished grade, as determined by the community development director, to the top of the wall) and/or minor landscaping or grading modifications on properties located on a hillside lot as identified in Section 14.12.020 (-H hillside overlay district) of this title, or located within one hundred (100) vertical feet of a ridgeline.

14. Minor landscaping revisions to existing or approved multifamily or nonresidential development that are determined to alter the character of the site.

15. Minor modifications to existing parking lots (reconfiguration or expansion).

16. Exterior repainting and refinishing on a development which significantly deviates from the color scheme and/or palette previously approved through an environmental and design review permit, or on structures in the hillside area as identified in Section 14.12.020 of this title when the colors or materials are not from the approved earthtone-woodtone list.

17. Outdoor storage areas.

18. Design changes to dwelling units that were existing or approved as of January 1991 and that are being replaced pursuant to Section 14.16.060 (conservation of dwelling units), or dwelling units that are being replaced pursuant to Section 14.16.270.B.5 (nonconforming structures) of this title.

19. Modifications to properties in the Eichler-Alliance (-EA) combining district which increase the height of roof structures by more than six inches (6") or change the roof pitch, including the creation of sloping roofs, covered atriums that exceed the existing roof height, clerestories or exposed exterior ducting, but excluding the review of solar collectors which are flush-mounted or not visible from the street frontage.

20. Rooftop equipment and screens visible from off-site.

21. Minor additions or modifications to a wireless communications facility, as prescribed under Section 14.16.360.B.

22. Residential accessory structures to be located between the front-facing wall of the primary structure and the front setback except as permitted by Section 14.16.020.E.

23. Non-residential accessory structure one hundred twenty (120) square feet or less in size.

24. Ancillary detached accessory structures on a developed multi-family residential property two hundred forty (240) square feet or less in size.

25. Development subject to review for an administrative design permit pursuant to any other provision of this title.

D. Exempt from Design Review.

1. Single-family dwellings when sited on individual lots with frontage on a public street and not otherwise subject to design review as listed above;

2. Ordinary maintenance and repairs;

3. New decks or additions to decks, except where review is required for decks located in hillside areas as prescribed in Section 14.25.040.C, above;

4. Installation of solar panels on existing structures or grounds, as provided under state law and in compliance with all applicable development standards;

5. Public art installations on public or private property approved through a City-established public art program. For purposes of this section (14.25.040), "public art" is defined as all forms of art including, but not limited to: sculptures, murals, mosaics, and fountains, which are located on the exterior of a publicly owned facility or on a privately owned property when such artwork is placed in a location intended to be visible to the general public;

6. The community development director may declare improvements which have been determined to be minor or incidental within the intent and objectives of this chapter to be exempt from review.

(Ord. 1838 § 49, 2005; Ord. 1825 § 2 (Exh. A) (part), 2004; Ord. 1820 § 4, 2004; Ord. 1819 § 2, 2004; Ord. 1802 § 6, 2003: Ord. 1751 § 7, 2000; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 83—89, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1964 , § 2(Exh. B) § 33, 11-19-2018; Ord. No. 1991 , divs. 1, 2, 3-1-2021; Ord. No. 1996 , div. 2(Exh. A, 10.2), 8-16-2021; Ord. No. 2002 , div. 14, 12-6-2021)

* Legislative history: Ordinances 1819 and 1820, adopted contemporaneously on February 2, 2004, amended the same code section, Section 14.25.040(C). Ordinance 1819 added a new subsection 10 to Section 14.25.040(C) and Ordinance 1820 moved subsections 1 and 2 from Section 14.25.040(C) to Section 14.25.040(B). Due to clerical error and contrary to the intent of the city council, Ordinance 1820 did not incorporate the amendment resulting from Ordinance 1819. The correct version of Section 14.25.040(C), as intended by the city council in its adoption of Ordinances 1819 and 1820, is set forth herein.

14.25.050 Review criteria.

A. Consistency with General Plan Design Policies. To ensure that each proposed improvement shall accomplish the purposes of Section 14.25.010, Specific purposes, environmental and design review shall be guided by general plan design policies, and the following criteria.

B. Consistency with Specific Plans.

1. In addition to the criteria listed below, development will be evaluated for consistency with applicable neighborhood and area design plans. Adopted plans which include design guidelines include: Hillside Residential Design Guidelines Manual, San Rafael Design Guidelines, the San Rafael General Plan 2040, specifically the neighborhoods element, and community design and preservation element, and any design guidelines or amendments that are adopted by resolution.

2. Development proposed within the downtown mixed use district shall comply with the design criteria and provisions set forth in the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. The criteria listed below shall apply where the Downtown San Rafael Precise Plan form-based code is silent on the specific criteria topic.

C. Design Criteria. Review shall be guided by the following criteria to assure that, with regard to buildings, structures and physical improvements, each proposed development shall carry out the purposes of this chapter, the general plan policies and any design plans. Any or all of the following criteria may~~, upon recommendation of the design review board~~, be waived by the planning commission when the applicant has demonstrated that alternative design concepts carry out the objectives of this chapter and where such development is consistent with the general plan. Hillside residential design criteria may be waived by the city council with the following findings:

1. The project design alternative meets the stated objectives of the guidelines to preserve the inherent characteristics of hillside sites, display sensitivity to the natural hillside setting and compatibility with nearby hillside neighborhoods, and maintain a strong relationship to the natural setting; and

2. Alternative design solutions which minimize grading, retain more of the project site in its natural state, minimize visual impacts, protect significant trees, or protect natural resources result in a demonstrably superior project with greater sensitivity to the natural setting and compatibility with and sensitivity to nearby structures.

D. Competent Design. The development plans shall be designed by, and bear the signature of a person who, under the building code, has been designated as legally competent to submit such development proposal. Plans for a development subject to a major environmental and design review permit before the ~~design review board~~ planning commission shall be prepared by, and bear the signature of, an architect and/or landscape architect licensed by the state of California Department of Consumer Affairs.

E. Site Design. There should be a harmonious relationship between structures within the development and between the structures and the site. Proposed structures and site development should be related accordant to existing development in the vicinity. There must be a consistent organization of materials and a balanced relationship of major elements.

1. Views. Major views of the San Pablo Bay, wetlands, bay frontage, the Canal, Mt. Tamalpais and the hills should be preserved and enhanced from public streets and public vantage points. In addition, respect views of St. Raphael's Church up "A" Street.

2. Site Features and Constraints. Respect site features and recognize site constraints by minimizing grading, erosion and removal of natural vegetation. Sensitive areas such as highly visible hillsides, steep, unstable or hazardous slopes, creeks and drainageways, and wildlife habitat should be preserved and respected.

3. Access, Circulation and Parking. The development should provide good vehicular, bicycle and pedestrian circulation and access, on-site and in relation to the surrounding area, including public streets, waterways, shorelines and open space areas. Safe and convenient parking areas should be designed to provide easy access to building entrances. Parking facilities should detract as little as possible from the design of proposed or neighboring structures. Entrances to parking structures should be well-defined and should include materials compatible with those of the parking garage. Traffic capacity of adjoining streets must be considered.

4. Energy-Efficient Design. The site design shall show that due regard has been given to orientation of structures to streets and climatic considerations.

5. Drainage. Special attention shall be given to proper site surface drainage and an adequate drainage system. (Note: The details of drainage systems shall be subject to approval of the director of the department of public works.)

6. Utility Service. Utility connections shall be installed underground. Proposed method of sanitary sewage disposal for all buildings shall be indicated. Refuse collection areas shall be screened and located in areas convenient both to users and to persons who make collections. There shall be adequate ingress and egress to all utilities. (Note: Recycling facilities must meet Standard of Resolution 93-57.)

F. Architecture. The project architecture should be harmoniously integrated in relation to the architecture in the vicinity in terms of colors and materials, scale and building design. The design should be sensitive to and compatible with historic and architecturally significant buildings in the vicinity, and should enhance important community gateways, view corridors and waterways as identified in the general plan.

1. Design Elements and Approaches. Design elements and approaches which are encouraged include:

    a. Creation of interest in the building elevation;

    b. Pedestrian-oriented design in appropriate locations;

    c. Energy-efficient design;

    d. Provision of a sense of entry;

    e. Variation in building placement and height;

    f. Dwelling units accessible to the mobility-impaired;

    g. Equal attention to design of all facades in sensitive locations;

    h. Bedrooms and decks oriented away from high noise sources;

    i. Common usable areas should offer residents a convenient and attractive place to exercise, relax and meet one another;

    j. Private yard areas should be oriented away from high noise sources and take advantage of view opportunities and solar orientation.

2. Materials and Colors. Materials and colors should be consistent with the context of the surrounding area. To minimize contrast of the structure with its background as viewed from the surrounding

neighborhood, color selection shall coordinate with the predominant colors and values of the surrounding landscape and architecture. High-quality building materials are required. In hillside areas, as identified in Section 14.12.020 of this title, natural materials and colors in the earth tone and woodnote range are generally preferred. Other colors and materials may be used which are appropriate to the architectural style, harmonious with the site and/or compatible with the character of the surrounding environment.

a. Earthtone/woodtone colors are considered to be various natural shades of reddish-brown, brown, grey, tan, ocher, umber, gold, sand, blue and green.

b. Natural materials include adobe, slump block, brick, stone, stucco, wood shakes, shingles and siding, and tile roofs.

c. Concrete surfaces shall be colored, textured, sculptured and/or patterned to serve a design as well as a structural function.

d. Metal buildings, roofs, or finishes that develop an attractive oxidized finish (such as copper or weathering steel) may be used. Unpainted metal, galvanized metal or metal subject to rusting is discouraged.

e. Glare-reducing and color-harmonizing finishes may be required on glass surfaces when they constitute fifty percent (50%) or more of a wall or building face, or when they permit a view of pipes, utilities and other service units.

f. Reflective glass, such as mirror or glazed, is discouraged. Such glass may be prohibited where it has an adverse impact, such as glare on pedestrian or automotive traffic or on adjacent structures.

g. Roof materials shall minimize reflectivity.

3. Walls, Fences, and Screening. Walls, fences and screening shall be used to screen parking and loading areas, refuse collection areas and mechanical equipment from view. Screening of mechanical equipment shall be designed as an integrated architectural component of the building and the landscape. Utility meters and transformers shall be incorporated into the overall project design.

4. Exterior Lighting. Light sources should provide safety for the building occupants, but not create a glare or hazard on adjoining streets or be annoying to adjacent properties or residential areas.

5. Signs. Signs shall be designed consistent with the guidelines in Chapter 14.19, Signs.

6. Upper-Story Additions and Modifications Which Result in More Than One Floor. Design review of new two-story homes, upper-story additions and lift-and-fill construction is not intended to preclude such development, but rather required to assure better design of such additions and to limit impacts on adjacent properties. Modifications to structures on lots in the hillside development overlay district or on lots with an average slope of twenty-five percent (25%) or more are subject to the Hillside Residential Design Guidelines Manual.

   a. Windows Facing the Rear Yard. There shall be a minimum number of upper-story windows facing the rear where privacy of adjacent residential structures would be significantly affected (e.g., unfiltered and direct views from a primary living area into a primary living room, bedroom or backyard recreational area of an adjoining residential property would result). Windows above the first story shall be designed so that they do not look directly onto private patios or backyards of adjoining residential property. Skylights, opaque glass, permanently affixed louvers, inset windows or windows with high sills may be required where appropriate when other window designs would severely affect the privacy of rear yards or patios of adjacent residences.

b. Windows Facing the Side Yard. Windows, balconies or similar openings above the first story shall be oriented so as not to have a direct line-of-sight into windows, balconies or similar openings of adjacent structures.

c. Windows Facing the Front Yard. Windows, balconies, doors or other openings above the first story are encouraged. Windows and doors shall match the style and scale of the windows and doors of the existing structure. Upper-story additions shall be an extension of the existing residence with internal circulation connecting to the existing structure.

d. Outside Stairways. Outside stairways to upper stories shall be designed as modest structures which do not dominate the facade of the building.

e. Design Consistency. Proposed roof slope, window style and building materials shall be designed to be consistent with the roof slope, window style and materials of the existing structure.

f. Neighborhood Compatibility. Where a prevailing design exists on both sides of the street for the length of the block, the addition or modification shall be designed to be compatible with the design character and scale of the neighboring buildings.

g. Shadowing. Shading of existing solar collectors and primary, active recreational areas in the rear and/or side yards of adjacent properties should generally not exceed ten percent (10%) of the area or increase existing shading by more than ten percent (10%) between the hours of noon and three p.m. (3:00 p.m.) on December 21 due to the proposed upper-story construction. For purposes of this subsection, a solar collector shall be any device which is designed primarily to collect solar energy and which contains an area of twenty-four (24) square feet or more. Applications which cannot meet this design criterion shall demonstrate that every feasible effort has been made to reduce the shading impacts of the proposed structure and that a reasonable upper-story addition which complies with this design criterion is not feasible.

G. Landscape Design. The natural landscape should be preserved in its natural state, insofar as practicable, by minimizing grading, and tree and rock removal. The landscaping shall be designed as an integral enhancement of the site, sensitive to natural site features.

1. Outdoor Amenity Areas. Outdoor amenity areas should be designed to minimize noise impacts on adjoining uses.

2. Water-Efficient Landscape Design. Water conservation shall be considered and incorporated in the design of landscape and irrigation plans for all projects. For projects that are required to provide a water-efficient landscape pursuant to Section 14.16.370 of this title, the landscape plan and supportive materials shall comply with Marin Municipal Water District (MMWD) Ordinance, and future amendments, as adopted. Where available and when deemed appropriate, reclaimed water shall be used for irrigation.

3. Landscaped Buffer Area. Landscaped buffer areas may be required near wetlands and other sensitive habitat areas. A landscaped berm around the perimeter of parking areas is encouraged.

4. Street Trees and Landscaping. Street trees shall be shown on plans submitted for a project within the downtown area, and shall be provided and protected in accordance with the city street tree planting guidelines and recommendations of the city arborist. Street trees and landscaping should be consistent with the following:

a. Provide smaller scale, seasonal color and street trees for pedestrian-oriented streets;

b. Provide high-canopy traffic-tolerant trees and landscaped setbacks for primary vehicular circulation streets.

c. Existing mature trees proposed to be removed as part of a project should be replaced with an equivalent number, size and alternate species.

d. Trees proposed to remain shall be protected during construction.

e. All trees shall be installed, protected and pruned in accord with accepted arboricultural standards and practices.

H. Temporary Visual and Air Pollution Resulting from Construction. Temporary pollution resulting from grading and construction shall be minimized to avoid unnecessary annoyance to persons living or working in the area.

(Ord. 1838 §§ 50, 51, 2005; Ord. 1820 § 5, 2004; Ord. 1802 § 7, 2003; Ord. 1695 § 1, 1996; Ord. 1694 § 1 (Exh. A) (part), 1996; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, §§ 90—93, 6-21-2010; Ord. No. 1923, § 2(Exh. A), 6-16-2014; Ord. No. 1996 , div. 2(Exh. A, 10.3), 8-16-2021)

14.25.060 Public notice and hearing.

A. Major Environmental and Design Review Permit.

1. The planning commission shall hold a public hearing on an application for a major environmental and design review permit.

2. Notice of ~~design review board meetings and the~~ planning commission hearings shall be given consistent with Chapter 14.29, Public Notice.

B. Minor Environmental and Design Review Permit.

1. The zoning administrator shall hold a public hearing on an application for minor environmental and design review permit.

2. Notice of ~~design review board meetings and~~zoning administrator hearings shall be given consistent with Chapter 14.29, Public Notice.

C. Administrative Environmental and Design Review Permit. Public notice and hearing are not required for issuance of an administrative environmental and design review permit, except for development subject to Sections 14.14.030 and 14.25.040(C)(19), modifications to properties in the EA overlay district, which shall comply with the notice provisions in Chapter 14.29 of this title.

(Ord. 1838 § 52, 2005; Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

(Ord. No. 1964 , § 2(Exh. B) § 34, 11-19-2018)

~~14.25.070 Streamlined review of certain residential projects.~~

~~The following residential projects shall be eligible for a streamlined review process, as established by city council resolution under a pilot program known as the "streamlined review for certain residential projects."~~

~~A. Residential structures of three (3) to ten (10) units.~~

~~B. Additions to multifamily residential structures of between three (3) to ten (10) units, where the addition constitutes no more than forty (40) percent of the total square footage of the building and would not increase the unit count by more than three (3) units.~~

~~This streamlined review process allows for a joint meeting of the planning commission and two (2) representatives of the design review board. The framework, roles and membership of the design review board representatives for a streamlined review process shall be as established by city council resolution. (Ord. No. 2018 , div. 1, 10-3-2022)~~

~~Ord. No. 2018 , div. 1, adopted Oct. 3, 2022, repealed the former § 14.25.070, which pertained to design review board, and enacted a new § 14.25.070 as set out herein. The former § 14.25.070 derived from Ord. 1838, adopted 2005: Ord. 1794, adopted 2003: Ord. 1625, adopted 1992; Ord. No. 1882, adopted June 21, 2010; Ord. No. 2006 , § 1, adopted May 2, 2022.~~

14.25.080 Conditions of approval.

In approving an environmental and design review permit, the community development director, zoning administrator or planning commission may impose reasonable conditions to assure furtherance of objectives stated herein. Dedication, relocation, installation and/or improvement of rights-of-way may be required where essential to prevent congestion and/or hazards which may result from the use of land proposed. Environmental and design review permits shall be subject to the following standard conditions, unless modified by the approving body:

A. All landscaping shall be maintained in good condition and any dead or dying plants, bushes, or trees shall be replaced with new healthy stock of a size compatible with the remainder of the growth at the time of replacement.

B. Landscaping and irrigation must meet the Marin Municipal Water District's (MMWD) water conservation rules and regulations. For projects that are required to provide a water-efficient landscape pursuant to Section 14.16.370 of this title, the landscape plan and supportive materials shall comply with the Marin Municipal Water District (MMWD) Ordinance No. 414, and future amendments as adopted. Prior to the issuance of a building permit, a grading permit or other authorization or city approval to proceed with construction and landscape installation, the applicant must provide written verification of plan approval from MMWD.

C. The building materials and colors as presented for approval shall be the same as required for the issuance of a building permit. Any future changes in materials or color shall be subject to review by the ~~design review board~~ planning director and approval of an administrative environmental and design review permit.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 95, 6-21-2010)

14.25.090 Findings.

The community development director, zoning administrator or planning commission may approve an application for an environmental and design review permit. The following findings must be made by the hearing body:

A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter;

B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located;

C. That the project design minimizes adverse environmental impacts; and

D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 96, 6-21-2010)

14.25.100 Notice of decision.

The planning director shall prepare a written decision which shall contain the findings of fact upon which such decision is based and conditions of approval, if any. The decision shall be mailed to the applicant.

(Ord. 1625 § 1 (part), 1992).

14.25.110 Effect of failure to give notice.

No action, inaction or recommendation regarding any development by the planning director, zoning administrator or planning commission shall be held void or invalid or be set aside by any court by reason of error or omission pertaining to the notices, including the failure to give any notice required by the section, unless the court after an examination of the entire case shall be of the opinion that the error or omission complained of was prejudicial, and that by reason of such error or omission the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error or omission had not occurred or existed. There shall be no presumption that the error or omission is prejudicial or that injury was done if error or omission is shown.

(Ord. 1625 § 1 (part), 1992).

14.25.120 Appeals.

Appeals of environmental and design review determinations shall be filed and processed in accordance with Chapter 14.28, Appeals.

(Ord. 1625 § 1 (part), 1992).

14.25.130 Effective date of permit.

An environmental and design review permit shall become effective at the end of the appeal period as specified in Chapter 14.28, Appeals, unless an appeal is filed.

(Ord. 1625 § 1 (part), 1992).

14.25.140 Approval to run with the land.

Any environmental and design review permit approval shall run with the land and shall continue to be valid for the time period specified whether or not there is a change of ownership of the site or structure to which it applies. Notwithstanding the foregoing, the issuance of administrative design review permits for outdoor eating areas located on city sidewalks or city rights-of-way shall not confer any property rights therein or otherwise encumber the city's property rights.

(Ord. 1751 § 8, 2000: Ord. 1625 § 1 (part), 1992).

14.25.150 Extensions.

An environmental and design review permit may be extended by the zoning administrator, if the findings required by Section 14.25.090, Findings, remain valid, there have been no substantial changes in the factual circumstances surrounding the originally approved design, and application is made prior to expiration. Administrative environmental and design review permits may be extended by the community development director.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 97, 6-21-2010)

14.25.160 Amendments—New application.

The planning director may approve changes in conditions of approval upon determining that the changes in conditions are minor and are consistent with the intent of the original approval, and the zoning administrator may approve minor changes to approved plans. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications and referred to the original hearing body.

(Ord. 1625 § 1 (part), 1992).

14.25.170 Revocation.

An environmental and design review permit that is exercised in violation of a condition of approval or a provision of this title may be revoked, as provided in Chapter 14.29, Enforcement.

(Ord. 1625 § 1 (part), 1992).

14.25.180 New application following denial or revocation.

If an application for an environmental and design review permit is denied or revoked, no new application for the same, or substantially the same, environmental and design permit shall be filed within one year of the date of denial or revocation of the initial application, unless the denial is made without prejudice.

(Ord. 1625 § 1 (part), 1992).

14.25.190 Construction review and enforcement.

A. Building Plan Review. An approved application, and all other related and approved maps, drawings and other supporting materials constituting a part of the approved application, shall be so endorsed by the community development director or designated staff. The community development director or designated staff shall review construction drawings, final plans and other similar documents prior to issuance of a building permit for compliance with the environmental and design review permit.

B. Construction Time Frame. The applicant shall continue with construction through to completion as one continuous process. The period of construction shall be of a duration reasonable to the size and complexity of the development. All plans have to be constructed and maintained as approved. Any design revisions are subject to Section 14.25.160, Amendments—New application.

C. Building Construction Inspections. The building official shall, when performing building inspections on the site, also inspect for compliance with the environmental and design review permit and shall report to the community development director any deviations therefrom, either in the plans or on the site.

D. Construction Impacts. Temporary visual and air pollution resulting from construction shall be minimized through retention of natural vegetation, rock formations and topography until applicant is prepared, once grading commences, to continue immediately with the construction applied for through to completion as one continuous process. The period of construction shall be of a duration reasonable to the size and complexity of the development. During grading, dust prevention must be emphasized to avoid unnecessary annoyance to persons living or working in the area.

E. Noncompliance. In addition to the fines and penalties set forth in Chapter 14.29, Enforcement, failure to comply in any respect with an environmental and design review permit shall constitute grounds for the immediate stoppage of the work involved in said noncompliance.

F. Certificate of Occupancy. An occupancy permit shall not be issued in part or whole for any improvement subject to environmental and design review unless and until the work specified in the environmental and design review permit has been completed, including landscaping. If for any valid reason full compliance in accordance with the environmental and design review permit cannot be made, a cash bond or other approved form of surety, which shall be in such amount as the city may fix, shall be posted for the work to be completed within a reasonable period of time as determined by the community development director.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 98, 6-21-2010)

14.25.200 Expiration.

Environmental and design review permits are valid for two (2) years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued or the permit is renewed or extended. If more than one (1) phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. C, 8.1), 8-6-2021)

Chapter 14.26 REQUESTS FOR REASONABLE ACCOMMODATION

14.26.010 Purpose.

This chapter provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

(Ord. 1838 § 54 (part), 2005).

14.26.020 Applicability.

A. Authorized Applicants. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or any who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the Acts.

B. Elimination of Regulatory Barriers. A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice. A request for reasonable accommodation shall comply with Section 14.26.030 (Application requirements) of this chapter.

(Ord. 1838 § 54 (part), 2005).

14.26.030 Application requirements.

A. Application. A request for reasonable accommodation shall be initiated by submitting to the community development department a completed application form, signed by the property owner or authorized agent, accompanied by the required fee, and the following information submitted in the form of a letter to the community development director:

1. The applicant's name, address and telephone number;
2. Address of the property for which the request is being made;
3. The current use of the property;
4. The basis for the claim that the individual is considered disabled under the Acts;
5. The zoning code provision or other city regulation or policy from which reasonable accommodation is being requested; and
6. An explanation of why the reasonable accommodation is necessary to make the specific property accessible to the individual.

B. Review with Other Planning Applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary planning approval (such as a use permit, environmental and design review permit, zone change, general plan amendment or subdivision), then the applicant shall file the information required by subsection A of this section together for concurrent review with the application(s) for discretionary approval.

(Ord. 1838 § 54 (part), 2005).

14.26.040 Review authority.

A. Community Development Director. A request for reasonable accommodation shall be reviewed by the community development director if no planning approval is sought other than the request for reasonable accommodation.

B. Other Review Authority. A request for reasonable accommodation submitted for concurrent review with another discretionary planning approval shall be reviewed by the authority reviewing the discretionary planning application.

(Ord. 1838 § 54 (part), 2005).

14.26.050 Public notice.

Written notice that a request for reasonable accommodation has been filed shall be given as follows:

A. Community Development Director Authority. For a request subject to review by the community development director, a notice shall be mailed to the owners of record of all properties which are immediately adjacent to the project which is the subject of the request at least fifteen (15) days prior to the decision by the director.

B. Other Review Authority. For a request made in conjunction with another discretionary planning approval, notice shall be given in the manner prescribed for the other discretionary planning application.

(Ord. 1838 § 54 (part), 2005).

14.26.060 Findings and decision.

A. Findings. The written decision to grant or deny a request for reasonable accommodation shall be consistent with the Acts and shall be based on consideration of the following factors:

1. Whether the housing, which is the subject of the request, will be used by an individual with a disability under the Acts;

2. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts;

3. Whether there is an alternative accommodation which may provide an equivalent level of benefit;

4. Whether the requested accommodation would negatively impact surrounding uses or properties;

5. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the city; and

6. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a city program or law, including, but not limited to, land use and zoning.

B. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required in subsection A of this section.

(Ord. 1838 § 54 (part), 2005).

14.26.070 Appeal of determination.

A determination by the review authority to grant or deny a request for reasonable accommodation may be appealed in accordance with Chapter 14.28, Appeals, of this title.

(Ord. 1838 § 54 (part), 2005).

Chapter 14.27 AMENDMENTS

14.27.010 Specific purposes.

The purpose of this chapter is to establish procedures for amending the zoning map or zoning regulations whenever the public necessity, convenience or general welfare require such amendments. The amendment process is necessary to maintain consistency with the general plan and state law over time, to supplement zoning regulations, and to improve the effectiveness and clarity of the zoning ordinance. The provisions and procedures of this chapter are applicable to amendments to the Downtown San Rafael Precise Plan, form-based code and downtown zoning map, which are adopted by separate ordinance.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1996 , div. 2(Exh. C, 9.1), 8-6-2021)

14.27.020 Authority.

A. The planning commission shall recommend to the city council approval, approval with modifications, or denial of the requested amendment to the zoning map or zoning regulations. After the hearing, the planning commission shall render its decision to the city council in the form of written recommendation in a report which shall include the reasons for the recommendation, and the relationship of the proposed ordinance or amendment to applicable general and specific plans.

B. If the matter under consideration is to rezone property, and the planning commission has recommended against the adoption of such amendment, the city council shall not be required to take any further action thereon unless appealed. Upon receipt of a recommendation from the planning commission to approve an amendment, the city clerk shall set the matter for public hearing. The city council shall hear and decide requests for amendments to the zoning map or zoning regulations based on recommendation for approval by the planning commission, or on appeal.

(Ord. 1625 § 1 (part), 1992).

14.27.030 Initiation of amendments.

A. Zoning Map. Amendments to the zoning map may be initiated by:

1. Application of one or more property owners affected by the proposed amendment;
2. Action of the planning director;
3. Action of the planning commission; or, by
4. Action of the city council.

B. Zoning Regulations. Amendments to zoning regulations may be initiated by:

1. Application of any property owner, resident or business owner in the city;
2. Action of the planning director;
3. Action of the planning commission; or, by

4. Action of the city council.

(Ord. 1625 § 1 (part), 1992).

14.27.040 Application for amendments initiated by the public.

Applications for amendments to the zoning map or zoning regulations by the public shall be initiated by submitting the following information to the planning department: a completed application form, signed by the property owner(s) or authorized agent, accompanied by the required fee, and any other information, plans or maps prescribed by the planning director.

(Ord. 1625 § 1 (part), 1992).

14.27.050 Public notice and hearing.

The planning commission shall hold a public hearing on any proposed rezoning or amendment to the zoning ordinance. Notice of public hearing shall be given consistent with Chapter 14.29, Public Notice.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

14.27.060 Findings.

The city council may approve an amendment to the zoning map or zoning regulations if the following findings can be made:

A. The proposed amendment is consistent in principle with the general plan.

B. The public health, safety and general welfare are served by the adoption of the proposed amendment.

(Ord. 1625 § 1 (part), 1992).

14.27.070 Notice of decision.

The city council shall prepare a written decision which shall contain the findings of fact upon which such decision is based. The decision shall be mailed to the applicant.

(Ord. 1625 § 1 (part), 1992).

14.27.080 Effect of failure to give notice.

No action, inaction or recommendation regarding a proposed amendment to the zoning map or zoning regulations by the planning commission or city council shall be held void or invalid or be set aside by any court by reason of error or omission pertaining to the notices, including the failure to give any notice required by this chapter, unless the court after an examination of the entire case shall be of the opinion that the error or omission complained of was prejudicial, and that by reason of such error or omission the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error or omission had not occurred or existed. There shall be no presumption that error or omission is prejudicial or that injury was done if error or omission is shown.

(Ord. 1625 § 1 (part), 1992).

14.27.090 Revisions of proposed amendments.

At or after a public hearing, the planning commission or city council may determine that the public interest would be served by:

A. Revising the boundaries of the area proposed for a zoning map amendment;

B. Considering zoning map designations not originally presented in an application, motion or commission recommendation; or

C. Considering a zoning regulation amendment not originally presented in a motion, application or commission recommendation.

Notice shall be given prior to a hearing on a revised amendment, unless the commission or council finds that the revised amendment will not have impacts greater than those that would result from the amendment in its original form. Any proposed amendment not previously considered by the planning commission during its hearing shall first be referred to the planning commission for report and recommendation, but the planning commission shall not be required to hold a public hearing thereon. Failure of the planning commission to report within forty (40) days after the reference, shall be deemed to be approval of the proposed modification.

(Ord. 1625 § 1 (part), 1992).

14.27.100 New application following denial.

If an application for an amendment to the zoning map or zoning regulations is denied, no new application or petition for the same, or substantially the same, amendment shall be filed within one year of the date of denial of the initial application, unless the denial is made without prejudice.

(Ord. 1625 § 1 (part), 1992).

14.27.110 Prezoning.

Unincorporated territory adjoining the city, within the sphere of influence, may be prezoned for the purpose of determining the zoning that will apply to such property in the event of subsequent annexation to the city.

A. Initiation. Prezoning may be initiated by action of the planning commission or city council, or by an application filed by a property owner(s), or the owner's authorized agent, within the proposed prezoning area.

B. Application. Application for prezoning may be initiated by a member of the public through the same procedures specified in Section 14.27.040, Application for amendments initiated by the public, for filing an application to amend the zoning map or zoning regulations.

C. Effective Date. Prezonings approved by the city council shall become effective at the same time the annexation becomes effective.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.28 APPEALS

14.28.010 Purpose and authorization for appeals.

In the event that an applicant or others affected wish to contest an action made by the planning director, zoning administrator or planning commission relevant to the administration of this title, they may file an appeal as described below.

A. Administrative Decision. Appeals based on decisions made by the planning director (or the planning director's designated appointee) may be filed by any aggrieved party with the planning commission.

B. Zoning Administrator Decision. Appeals based on decisions made by the zoning administrator may be filed by any aggrieved party with the planning commission.

C. Planning Commission. Appeals based on decisions made by the planning commission may be filed by any aggrieved party with the city council.

While an appeal is pending, the establishment of the proposed structure or use is to be held in abeyance.

(Ord. 1625 § 1 (part), 1992).

14.28.020 Right of appeal.

Right of appeal is prescribed in the individual chapters of this title authorizing each decision that is subject to appeal.

(Ord. 1625 § 1 (part), 1992).

14.28.030 Filing and time limit of appeals.

An appeal under this title shall be filed in the planning division within five (5) working days of the decision being contested, except that where such an appeal is combined with an appeal of the same decision under Title 15 of this code, the appeal shall be filed within ten (10) calendar days, as provided under Section 15.01.040 of this code. Appeals shall be made in writing and shall set forth the grounds for the appeal. Appeals shall be accompanied by the required filing fee.

(Ord. 1838 § 55, 2005: Ord. 1625 § 1 (part), 1992).

14.28.040 Scheduling and notice for public hearing

A. Public Hearing Required. The planning commission or city council, as the case may be, shall hold a public hearing on an appeal. At the public hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant and any other interested party.

B. Public hearing scheduled. Following the timely filing of an appeal, the appeal shall be scheduled for the next available planning commission or city council meeting, as the case may be, and allowing sufficient time for giving notice pursuant to subsection (C) of this section and state law.

C. Public hearing notice. Notice of public hearings shall be given in the manner required for the decision being appealed as set forth in Section 14.29.020 of this Code.

(Ord. 1625 § 1 (part), 1992).

(Ord. No. 1990 , div. 6, 3-1-2021)

14.28.050 Notice of decision.

After the hearing, the appellate body shall affirm, modify or reverse the original decision. Written notice of the decision shall be mailed to the applicant and to the appellant.

(Ord. 1625 § 1 (part), 1992).

14.28.060 Effect of failure to give notice.

No action, inaction or recommendation regarding any proposed development by the planning commission or city council shall be held void or invalid or be set aside by any court by reason of error or omission pertaining to the notices, including the failure to give any notice required by this section, unless the court after an examination of the entire case shall be of the opinion that the error or omission complained of was prejudicial, and that by reason of such error or omission the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error or omission had not occurred or existed. There shall be no presumption that error or omission is prejudicial or that injury was done if error or omission is shown.

(Ord. 1625 § 1 (part), 1992).

14.28.070 Effective date of appealed actions.

A. A decision by the city council regarding an appeal shall become final on the date action was taken by the city council.

B. A decision by the planning commission regarding an appeal shall become final five (5) working days after the date of the decision, unless appealed to the city council.

(Ord. 1625 § 1 (part), 1992).

14.28.080 New appeal.

Following denial of an appeal, any matter that is substantially the same shall not be considered by the same body within one year, unless the denial is made without prejudice.

(Ord. 1625 § 1 (part), 1992).

Chapter 14.29 PUBLIC NOTICE

14.29.010 Specific purpose.

This chapter establishes procedures for noticing public meetings and hearings before the ~~design review board,~~ zoning administrator, planning commission and city council. When a public meeting or hearing is required by this zoning ordinance, public notice shall be given as provided by this chapter.

(Ord. 1824 § 1 (Exh. A) (part), 2004).

14.29.020 Notice of public meeting or hearing.

When a land use permit or other matter requires a public meeting or hearing, the public shall be provided notice in compliance with state law (Government Code Sections 65090, 65091, 65094 and 66451.3, and Public Resources Code 21000 et seq.), and as required by this chapter.

A. Contents of Notice. Notice of a public meeting or hearing shall include:

1. Hearing Information. The date, time and location of the meeting or hearing, the name of the meeting or hearing body or officer, and the phone number of the project planner and street address where an interested person could call or visit to obtain additional information;

2. Project Information. A description of the proposed project or matter to be considered and the location of the property, if any, that is the subject of the hearing; and

3. Statement of Environmental Review. The notice for a public hearing shall include a statement regarding compliance with the California Environmental Quality Act (CEQA) and level of environmental review. If a negative declaration or environmental impact report has been prepared for a project, the notice shall include a statement that the hearing body will also consider adoption of the negative declaration or certification of the final environmental impact report.

B. Method of Notice Distribution. Notice of a public meeting or hearing required by this chapter for a land use permit, amendment, or appeal shall be given as follows, or as required by state law (Government Code Sections 65090 and 65091), whichever is greater:

1. Mailing. Notice shall be mailed at least fifteen (15) days prior to the meeting or hearing to the following:

a. Owners of the Project Site and Applicant. The owner(s) of the subject property, or the owner's agent and the applicant;

b. Neighborhood, Business and Homeowner's Association. The affected neighborhood, business and homeowner's association(s) where the project site is located;

c. Affected Property Owners. All property owners shown on the latest equalized assessment roll within a radius of three hundred feet (300') from the exterior boundaries of the property that is the subject of the meeting or hearing (in lieu of the assessment roll, records of the county assessor which may contain more recent information than the assessment roll may be used);

d. Nonowner Occupants and Tenants. All nonowner occupants and tenants within a radius of three hundred feet (300') from the exterior boundaries of the property that is the subject of the meeting or hearing;

e. Local Agencies. If any proposed rezoning or amendment to the zoning ordinance affects the permitted uses of real property, each local agency expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the development, whose ability to provide those facilities or services may be significantly affected.

2. Posting. Notice shall be posted on the subject property at least fifteen (15) days prior to the meeting or hearing in accordance with the following:

a. Applications Requiring Posting. A public hearing notification sign shall be required for the following applications: planned developments, rezonings and general plan amendments involving a land use change, tentative maps, variances, use permits involving new construction and environmental and design review permits. Posting shall be required for

environmental and design review permits only when development is proposed on a vacant lot or when additional building area is proposed on an existing developed property.

b. Sign Size, Height and Design. Each sign shall be twenty-four inches by thirty-six inches (24" × 36") and shall be mounted or attached to a frame that provides adequate visibility. The sign shall provide a notice with information about the proposed project, including: the name of the meeting or hearing body or officer, the date, time and location of the meeting or hearing, a description of the proposed project, and the phone number of the project planner and address where an interested person could call or visit to obtain additional information.

c. Timing. The city shall cause the required sign to be posted, at the owner's expense, on the subject property in accordance with subsection (B)(2)(d) of this section, at least fifteen (15) days prior to the meeting or hearing. The sign shall remain until action has been taken on the project and the appeal period has expired.

d. Location. The required sign shall be posted on the subject property parallel to the street or right-of-way within five feet (5') of the front property line. In all instances, the sign shall be located in an area most visible to the public. Signs shall not be located in a manner that would impede safe sight distance for automobiles. In cases where there is an existing structure on the subject property located closer than five feet (5') from the front property line, the notice may be posted inside a window or on a wall clearly visible from the public right-of-way or sidewalk.

3. Publication. Notice of any proposed rezoning or amendment to the zoning ordinance shall be published at least once in a newspaper of general circulation at least fifteen (15) days prior to the hearing.

4. Alternative to Mailing. In the event that the number of property owners to whom a notice would be mailed is greater than one thousand (1,000), the city may, as one alternative to the notice required by subsections (B)(1)(a) through (B)(1)(d) of this section, place a display advertisement of at least one-eighth page in a newspaper of general circulation in the city at least fifteen (15) days prior to the hearing.

5. Additional Notice. In addition to the types of notice and noticing radius required above, the community development director may provide any additional notice or notice a wider radius as the director determines is necessary or desirable.

C. Neighborhood Meetings. When neighborhood meetings are required in accordance with City Council Resolution 8037, or subsequent amendments, noticing shall follow the procedures in this Chapter.

(Ord. 1824 § 1 (Exh. A) (part), 2004).

(Ord. No. 1882, Exh. A, § 99, 6-21-2010)

Chapter 14.30 ENFORCEMENT

14.30.010 Specific purposes.

This chapter establishes the authority of the code enforcement office, and identifies enforcement responsibilities, procedures and actions. Enforcement of the provisions of this title shall be diligently pursued in order to provide for their effective administration, to ensure compliance with the terms and conditions of permit

and license approvals, to promote the city's planning efforts, and to protect the public health, safety and general welfare.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

14.30.020 Authority of the code enforcement office established.

The code enforcement office is hereby established as a separate department or division under the directorship of the planning department, with primary responsibility being enforcement of the zoning ordinance. The code enforcement office supports the planning department, city manager, city attorney, public works department, building inspection department, finance department and police department.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

14.30.030 Permits, licenses, certificates and approvals.

A. The planning director and/or planning commission may refuse to receive, file, process, review, make recommendations on, hold hearings on, issue permits for, or otherwise take action on any application under this title if the site, structure and/or use involved in the application is in violation of or will result in a violation of this title or municipal code. Any permit, zoning change, license or other action issued in conflict with the provisions of this title shall be null and void.

B. All departments, official and public employees of the city of San Rafael vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title; and any such permit or license issued in conflict with the provisions of this title shall be null and void.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

14.30.040 Violations.

No person shall fail to comply with the terms and conditions of any permit or approval issued pursuant to this title or with any other ordinance relating to land use development. This section shall apply to any person, whether or not the person was the original applicant for the permit or approval, and whether or not the person is the owner, lessee, licensee, agent or employee, if the person has notice of the terms and conditions of the permit or approval.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1774 § 2, 2001; Ord. 1625 § 1 (part), 1992).

14.30.050 Each day a separate violation.

Each day during any portion of which a person violates the provisions of this title or the terms and conditions of any permit or approval shall constitute a separate violation.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

14.30.060 Enforcement actions.

In addition to any other remedy provided for by law, the following types of enforcement action may be taken with respect to any violation of this title or the terms and conditions of any permit or approval:

A. The code enforcement officer, planning director or the planning director's designated appointee(s) may institute proceedings, as provided for in Section 14.30.070, Revocation of discretionary permits, of this chapter, to revoke any permit or approval;

B. The code enforcement officer may issue a citation with fees, as provided for in Municipal Code Section 1.42.010;

C. The code enforcement officer, planning director, director of public works, city attorney or any other city official designated by the city manager may institute nuisance abatement proceedings, as provided for in Municipal Code Chapters 1.16 and 1.20;

D. The city attorney may prosecute as a misdemeanor municipal code violations, in accordance with Municipal Code Section 1.42.010.

(Ord. 1838 § 56, 2005: Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

14.30.070 Revocation of discretionary permits.

A. Duties of Planning Commission. Upon determination by the planning director, planning commission or city council that there are reasonable grounds for revocation or modification of a use permit, variance, design review or other discretionary approval authorized by this title, a revocation hearing shall be scheduled before the planning commission.

B. Notice and Public Hearing. Notice shall be given in the same manner required for a public hearing to consider permit approval.

C. Hearing. The planning commission shall hear and consider all relevant evidence, objections and protests, and shall receive written and/or oral testimony from owners, witnesses, city personnel and interested persons relative to such case and to proposed modifications, rehabilitation, repair, demolition or other abatement appropriate under the legal powers of the city.

D. Decision and Notice. At the conclusion of the hearing, the planning commission shall render a decision, and ensure that the owner or the owner's authorized representative is notified of the decision and of the appeal process. If the owner or the owner's authorized representative is not present at the meeting, the planning commission shall send notice of the decision by certified mail to the owner of the use or structure for which the permit was reviewed. Said notice shall also include notice of the right to appeal the planning commission's decision to the city council.

E. Effective Date—Appeals. If the owner or the owner's authorized representative is present at the revocation hearing, a decision to revoke a discretionary permit shall become final five (5) working days after the date of the decision, unless appealed to the city council. In the event that the owner or the owner's authorized representative is not present at the revocation hearing, a decision to revoke a discretionary permit shall become final five (5) working days after notice of the decision is received by the applicant through certified mail, unless appealed to the city council. Decisions made by the city council on revocation hearings shall be final.

F. Right Cumulative. The city's right to revoke a discretionary permit, as provided in this section, shall be cumulative to any other remedy allowed by law.

(Ord. 1824 § 1 (Exh. A) (part), 2004: Ord. 1625 § 1 (part), 1992).

Exhibit C: Changes to Title 15

15.07.020 - Lot design standards.

(d) Environmental and Design Review Permit requirement. Any lot in a major or minor subdivision created for the purpose of development, where the percent of slope is over twenty-five percent (25%) shall require a major environmental and design review permit, processed consistent with the provisions of Title 14 ~~19~~ (Zoning) of the municipal code. This permit application shall be reviewed by ~~the design review board and approved by~~ the planning commission to assure that such lots and the subdivision design comply with the following general plan criteria as implemented through the hillside resource residential design guidelines manual:

(1) Subdivision grading minimized;

(2) Avoids highly visible hillsides and ridgeline development;

(3) Preserves hillsides as visual backdrop;

(4) Steep slopes avoided;

(5) Clustering of development to be utilized to minimize visual impacts;

(6) Tree preservation maximized;

(7) Minimizes removal of natural vegetation;

(8) More hazardous/unstable portions of site avoided;

(9) Mitigates geotechnical site constraints or conditions when needed;

(10) Buildings achieve hillside design quality; and

(11) Preserves or protects unique or special natural features of the site, such as rock outcroppings, mature vegetation, landforms, creeks, drainage courses, hilltops or ridgelines.

(e) The following reports and maps shall be prepared prior to tentative map approval in order to insure that the subdivision design is consistent with the San Rafael general plan:

(1) A geotechnical investigation prepared consistent with the geotechnical review matrix shall be conducted.

(2) A drainage report prepared in accordance with the requirements outlined in the hillside resource residential design guidelines manual.

(3) A biological survey, which classifies portions of the site by their degree of risk of plant communities from wildland fires and establishes guidelines for development in riparian and watershed areas.

(4) An arborist/forester's report consistent with the requirements outlined in the hillside resource residential design guidelines manual shall be prepared which establishes guidelines for the preservation of significant trees.

(5) A grading and erosion control plan consistent with the requirements outlined in the hillside resource residential design guidelines manual shall be prepared.

(6) A building envelope shall be established for each lot consistent with the hillside resource residential design guidelines manual.

15.07.030 - Street, driveway and parking standards.

(a) Narrower street widths (acceptable to the city engineer and other city departments) can be approved when it will reduce grading impacts and the number of lots, topography, and the level of future traffic development justifies the reduction. Twenty-five feet (25') is the minimum width requirement for a public street.

(b) Each lot shall have a private driveway, the grade of which shall not exceed eighteen percent (18%), with adequate provision for ingress and egress. With a supportive recommendation from ~~the design review board and~~ city departments, an exception may be granted to allow grooved driveways with a grade of eighteen to twenty-five percent (18-25%), when it will result in a project which has fewer impacts on grading, trees and views.

(c) Each lot created on substandard city streets and all private streets shall provide a minimum of two (2) off-street, independently accessible guest parking places for each dwelling unit intended to be developed on the lot. These parking spaces shall not be located on the driveway apron. These spaces shall be conveniently placed relative to the dwelling unit they serve. This requirement may be waived or reduced when the size or shape of the lot or the need for excessive grading make the requirement infeasible. Subsection (c) shall not apply to SB 9 Housing Developments (regulated by Section 14.15.282) or urban lot splits (regulated by Chapter 15.155—Urban Lot Splits).

(d) No private street leading to a private driveway on a lot shall exceed a grade of eighteen percent (18%).

15.06.110 - Grading and drainage.

(a) Grading. Grading required for a subdivision shall meet the following standards:

(1) Grading shall be designed to create a natural appearance to the extent possible. Graded slopes shall be designed to transition to adjacent properties so as to limit abrupt changes in topography.

(2) Graded slopes shall not exceed two to one (2:1), unless the city engineer determines that a steeper slope is justified to minimize the amount of grading or to reduce potential tree removal and, where it is determined that the soil and geologic conditions are suitable for and capable of accommodating a steeper slope.

(3) The finished lot grading shall provide a building site and usable yard area that is compatible with the surrounding pattern of development.

(4) Retaining walls and/or stepped foundations shall be encouraged in areas to reduce grading and tree removal. Retaining walls shall not exceed eight feet (8') in height, unless approved by ~~the city design review board.~~ the Planning Commission.

Responsible Growth in Marin

Date: June 15, 2024

Via Email

To: San Rafael Planning Division and Commissioners
City of San Rafael Community Development Department
1400 Fifth Avenue, San Rafael, CA 94903

cc: Micah Hinkle, Community Development Director
Margaret Kavanaugh-Lynch, Planning Manager

Re: Comments Regarding the Proposed Consolidation of the Design Review Board and the Planning Commission

Dear Planning Division and Commissioners,

As you know, Responsible Growth in Marin ("RGM") is a non-profit grassroots organization comprised of 1000+ residents and businesses living and working in Marin County. Our mission is to support responsible growth and development of much needed affordable housing, while protecting, as best we can, the beautiful county in which we live from poorly thought-out development and unchecked growth. We are aware that recent laws, such as SB 35 and SB 9, passed by the State of California have severely limited the ability of local governments to regulate development.[1] However, our view is that those laws make it even more important for cities such as San Rafael to do their best to prevent haphazard construction and potential abuse of those laws. Poor design and inadequate planning that will have a detrimental effect on our county and city for decades to come will not serve either existing residents or the residents of the much needed new housing.

Given this background, we understand and support the rationale behind San Rafael ("the City")'s proposal to consolidate the Design Review Board ("DRB") and the Planning Commission ("PC"). We agree that red tape should be eased to allow well thought out and beneficial projects to move forward more quickly. We would like to work with the City to accomplish this in a way that safeguards whatever protections are left against ministerial approval of poorly designed projects and piecemeal developments.

As you know, several members of RGM attended the PC meeting on Tuesday, June 11, 2024 and we made verbal comments regarding the staff report and the proposed Ordinance to amend Titles 2, 14 and 15. We expand on some of those comments here, and also raise additional

[1] There are reasons that Housing Accountability Act is known colloquially as "the **Builder's** Remedy" (emphasis added).

issues that we think are important for the PC to consider before approving the proposed consolidation of the two boards. We do this not to criticize but to (hopefully) make constructive suggestions.

OBJECTIVE DESIGN STANDARDS

First, we think that the comments made by Kate Powers of the Marin Conservation League are incredibly important and raise several separate issues. As currently constituted, all DRB members must be licensed architects, licensed building designers, or licensed landscape architects and at least one member must have background or experience in urban design. In other words, the current DRB is by far the most qualified and experienced City Board or Commission to opine on, and make recommendations for, the City's proposed Objective Design Standards ("ODS").

The City's records show that the DRB never formally opined on or recommended the City's draft ODS. The DRB discussed the draft ODS in its regular meeting on September 7, 2022, and at that time determined that much more information was required before the DRB could recommend them to the City. This was because of the myriad issues involved as well as the City's diversity. On November 8, 2022, staff reported to the DRB that requested information was still being gathered. However, that appears to be end of the DRB's involvement with ODS.

At the PC's regular meeting on February 27, 2024, staff stated that it was important for the PC to approve the City's draft ODS quickly otherwise the City would have to return around $28,000 to the state. Staff also noted in its written report to the PC that it "regret[s] that the DRB did not have an opportunity to make a formal recommendation on these design standards." *See* staff report 2/27/2024 at p. 4.

Frankly, we think it bizarre that the City stated the DRB did not have an "opportunity" to make formal recommendations when **22 of its 29 scheduled meetings** between November 8, 2022 and February 27, 2024 were cancelled. On its surface, it appears that the PC was encouraged to rush through approval of the draft ODS simply to save $28,000 – frankly, a pittance compared to the cost of the legal risks the City will be taking and without any regard to the effect this decision might have on its residents – both new and existing – regarding the potentially poorly designed buildings and neighborhoods those residents would have to live with for decades. Alternatively, the conclusion could be drawn that the City did not want the DRB's expert input.

It's possible that much work went on behind the scenes regarding San Rafael's draft ODS. However, as DRB Chair Rege and Member Summers stated at the September 7, 2022 meeting, the DRB is only five people and the general public are the real people entitled to know what was going on and what proposed future projects would look like. *See* DRB 9/7/2022 Meeting Video at approx. 46:34. Serious questions are raised because of the City's apparent desire to force through the City's draft ODS despite the many unanswered DRB questions and the PC's description of them as "half-baked" at Tuesday's meeting.

We feel that this issue should be fully explained and clarified by the City, which has a commitment to transparency.[2]

To suggest that the City will deal with any complications arising from the uncertainty of the ODS by utilizing a "stable" of attorneys and consultants engaged by the City seems naïve. The City must know that potential ambiguities in laws and ordinances can be exploited, and even if the ordinance eventually survives, legal costs can be vast – far in excess of $28,000 – all to be paid by taxpayers.

In sum, it seems to us that the prudent and responsible thing for the City to do would be to delay the ratification of the proposed consolidation Ordinance until the ODS issue has been totally finalized in a **transparent** and acceptable way.

MEMBER REQUIREMENTS AND DEFINITIONS

As we suggested at the Tuesday's meeting, both the proposed Ordinance and the staff report lacked important definitions for many of the important terms. Additionally, there are significant conflicts between the documents. Director Hinkle indicated that the City's legal counsel had already raised the issue of definitions and had suggested a definition of the term "design professional." The definition for that term, read by Director Hinkle, was different than the definition in California Civil Code §8014. While always deferring to the judgment of the City's counsel, we think it prudent to conform to long standing California law whenever possible.

Further, the requirements suggested by the staff report and the draft Ordinance for being a planning commissioner appear to conflict with each other. The staff report indicates that "five of the commissioners [will have] expertise in planning, zoning, and land use,[3] and four [will have] expertise in design."[4] *See* Staff Report at p. 2. However, the same paragraph goes on to say that balance will be achieved because "two of the seven [main PC members] and both alternates, [will have] expertise in land use, zoning, planning, and design, with two of the seven, and both alternates, being architects or design professionals."

Simply put, the math does not add up. Four members of the PC (including both alternates) **must be** design professionals or licensed architects; however of the other five, the four District Representatives need no qualification other than to live in San Rafael (*see* draft Ordinance). That leaves the one additional "at large" commissioner to make up the five who must have expertise in planning, zoning, and land use. However, according to the staff report, of the three

[2] See, e.g., https://katecolinsanrafael.com/local-issues/ ("My first initiatives upon joining the City Council in 2013 was co-creating with our community the Resident Engagement and Transparency plan which the City has since implemented.")

[3] We assume each commissioner needs only expertise in one of these areas, not all of them. This should be clarified.

[4] It is not clear from the staff report whether the four will be separate from the five, or whether the five can include the four. This should be clarified.

At-large Members, only "one needs to be a Licensed Architect and one needs to be a Design Professional." Therefore, according to one part of the staff report, one at-large member needs no professional qualifications but the same paragraph states that all three at-large and the two alternates need to have expertise in "land use, zoning, planning, and design."

This should be clarified.

Given the lack of definitions of various terms used, the conflicting definitions proposed for some of the terms, and the confused requirements for the make-up of the PC, we suggest that using the descriptions and requirements for the current DRB (Title 2 §2.16.121) to determine the requirements for members of the revamped PC. Those terms have stood the test of time and can easily be adapted to apply to a nine-member commission instead of a five-member advisory board.[5]

Finally, the concept of a nine-member PC, two of whom being non-voting, should be questioned. As more than one commissioner noted, the idea that alternate members should attend every PC meeting but with no actual authority (unless a fully-fledged member is absent) seems to ignore reality. While the concept is understandable, the PC and staff acknowledged potential difficulties in getting qualified applicants for the full board. Therefore, it should be taken into account why a highly qualified resident would give up so much time attending PC meetings every two weeks as an alternate, to potentially have no impact. The question we posed at Tuesday's meeting, and echoed by some commissioners, seems reasonable – why not simply have a nine-member PC? This would also solve the issue raised by one commissioner as to how a quorum of the PC at any given meeting would be determined.

THERE IS NO NEED TO RUSH

At Tuesday's PC meeting, Director Hinkle stated that a number of development applications were on hold because the applicants were waiting for this proposal to pass (that is, consolidating the PC and DRB) so that they did not have to deal with separate DRB and PC processes. One commissioner noted that this was not a reason to rush the consolidation process while another commissioner stated that the purpose of the PC was to protect the community and ensure projects were in the best interests of the City, not necessarily the best interests of developers. We agree.

While we support the concept of streamlining the approval processes, as noted above, approving an ordinance that is only "half-baked" seems unnecessary right now. More than one commissioner noted that "things seem quiet right now", indicating that if the City wanted to

[5] Director Hinkle noted that requiring architects or other professionals to be licensed would make retired architects or other professionals ineligible. Although the current version of Title 2 §2.126.120 requires members to be licensed, this could easily be modified to include "or retired licensed architects or licensed building designers [or other professionals]."

"blow things up" (referring to planning requirements), now was a good time to do it.[6] We suggest that the opposite is also true – at the present time, there is the opportunity to make sure **the City gets it right by not rushing things**.

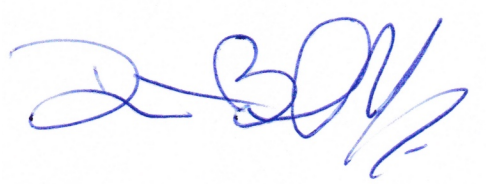
What the City does now will have long-term effects and profound impacts on current residents – those who have invested years of their lives and significant hard-earned cash in making the City what it is today. Sacramento has skewed the playing field in favor of new housing (without regard for what is actually needed – **affordable** housing). It is thus up to the City to protect the interests of its existing residents as well its new residents. The City should not give away the store to developers simply because Sacramento has passed well-meaning but poorly thought out one-size-fits-all laws.

History is littered with examples of well-intended planning gone wrong (for example, New York in the 1930s; London in the 1980s and 90s; Los Angeles still)[7] as well as communities and neighborhoods lacking cohesion and overall plan (for example, San Rafael's own Canal and Gerstle Park neighborhoods). The City (that is, this PC and the City Council) should learn from others' mistakes. The City should well know that creative lawyers, working for well-heeled developers, will be able to exploit any and all loopholes, not only potentially costing the City (and its taxpayers) enormous sums in legal fees but also wreaking development havoc on our city and its neighborhoods.

The PC is not just an advisory commission. It makes important decisions and recommendations to the City Council. It has a duty to the city as a whole, particularly its residents, not to make ill-advised rushed decisions simply because the City Council wants a particular result.

We remain willing to work with the City to help ensure it remains the best it can be.

Yours sincerely,



David B. Smith, President
Responsible Growth in Marin

[6] We note that the first commissioner at the meeting to suggest this will no longer be a resident of San Rafael by the end of this month, and thus no longer eligible to serve on the PC.

[7] This is not intended by any means to be a complete list.

SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: SM 3.a

Meeting Date: June 21, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager's Office/Human Resources

Prepared by: Angela Robinson Piñon, Assistant City Manager

Marissa Sanchez, Human Resources Director

City Manager Approval: _____

TOPIC: MEMORANDUM OF UNDERSTANDING WITH THE SAN RAFAEL MID-MANAGEMENT EMPLOYEE ASSOCIATION (SRMMEA)

SUBJECT: RESOLUTION APPROVING A SUCCESSOR MEMORANDUM OF UNDERSTANDING PERTAINING TO COMPENSATION AND WORKING CONDITIONS FOR THE SAN RAFAEL MID-MANAGEMENT EMPLOYEE ASSOCIATION (JULY 1, 2024, THROUGH JUNE 30, 2027)

RECOMMENDATION:

Adopt a resolution approving a successor memorandum of understanding (MOU) pertaining to compensation and working conditions for the San Rafael Mid-Management Employee Association (SRMMEA) beginning July 1, 2024, and ending June 30, 2027.

BACKGROUND:

The San Rafael Mid-Management Employee Association (SRMMEA) represents 36 FTE employees in various City departments. The SRMMEA was organized in November 2023. Prior to forming the SRMMEA, all mind-management employees in the City of San Rafael were unrepresented. Wages, benefits and working conditions were established through a City Council salary resolution. The current resolution, Resolution No. 14955 expires on June 30, 2024; however, with the establishment of the SRMMEA bargaining group, their wages, benefits and working conditions will be specified in a memorandum of understanding (MOU). Representatives of the City and SRMMEA have met in good faith and worked diligently to negotiate the terms of an MOU. The City and SRMMEA signed a total package tentative agreement for a three-year successor MOU effective July 1, 2024, and SRMMEA membership ratified the proposal on June 17, 2024.

The City's negotiations were informed by the following:

- Fiscal Sustainability and Predictability
  - Revenue Assumptions
  - Expenditure Assumptions
  - Inflation and recession predictions

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

- Three-year MOUs
- Recruitment and Retention of Employees
  - Vacancy and Attrition Rates
  - Hard to fill job classifications
- Compensation of Comparable Agencies
- Internal Equity and Compaction

ANALYSIS:
The following section summarizes the terms and significant economic items in the MOU between the City and SRMMEA. In addition to the economic items, some operational items were addressed in the final agreement.

1. **Term of the Agreement:** July 1, 2024, through June 30, 2027

2. **General Wage Increase (Article 3.1.2):** All classifications in the bargaining group will receive a 3.0% cost of living increase each year of the MOU. In addition, individual classifications will receive equity adjustments based on the labor market adjustment agreed to for each position. The total value of the salary increases applied across the bargaining group is as follows:

   a. Year 1: A 3.0% cost of living increase and up to a 4.0% equity adjustment (dependent upon position) for a total increase of 3.0% to 7.0%

   b. Year 2: A 3.0% cost of living increase and up to a 4.0% equity adjustment (dependent upon position) for a total increase of 3.0% to 7.0%

   c. Year 3: A 3.0% cost of living increase and up to a 4.0% equity adjustment (dependent upon position) for a total increase of 3.0% to 7.0%

   The salary schedule included in the attached MOU authorizes the proposed new salary range for each position.

3. **Full Flex Cafeteria Plan (Article 4.1.1):** To address rising healthcare costs and improve the City's ability to recruit and retain employees and to improve the market position among comparator agencies, employees will receive an increase in their monthly Flex Dollar Allowance as noted below:

Health Tier	Current	Increase	Effective Dec 2024
Employee Only	$ 735.86	$ 214.14	$ 950.00
Employee +1 dependent	$ 1,471.71	$ 428.29	$ 1,900.00
Employee + Family	$ 1,913.24	$ 486.76	$ 2,400.00

For the term of this MOU, on December 15, 2025, and December 15, 2026, the flex dollar amount shall increase up to a maximum of 5%, based on the Kaiser Bay Area premium rate increase. If the Kaiser Bay Area premium rate increase is between 10%-15%, the City and represented employees will split the cost of the increase above ten percent (10%) evenly. Should the rate increase exceed 15%, the City and the Association agree to reopen the MOU to negotiate the employer's contribution to healthcare. Upon expiration of the MOU, the flex dollar amount increase shall revert to a maximum of 3%, based on the Kaiser Bay Area premium rate increase.

4. **Out of Class Compensation (Article 3.4.1):** Establishes "out of class" compensation for employees working in a higher job classification for ten (10) or more days. Employees would receive a five percent (5%) increase in wages for taking on the other duties. If the assignment goes beyond four (4) weeks, the employee shall be compensated at a step within the salary range for the classification that is "greater than 5% of the employee's base pay."

5. **Bilingual Pay (Article 3.4.2):** Employees who demonstrate proficiency in speaking and writing a language may receive up to an additional $250 monthly.

6. **Uniform Pay (Article 3.4.3):** Increases the uniform pay for those employees required to wear a uniform from $445 to $545 per year.

7. **Life Insurance (Article 4.5):** Increases life insurance coverage benefits from $150,000 to $300,000.

8. **Deferred Compensation (Article 4.10):** The City will contribute 1.06% of an employee's annual pensionable compensation to a deferred compensation account on the employee's behalf.

9. **Severance: (Article 7.3.1):** The severance amount is tied to years of service up to a maximum of 6 months' severance pay. Severance pay is contingent upon an employee's release of claims against the City and only applies for terminations that are "not for cause."

10. **Non-Economic Items**: In addition to the items discussed above, an agreement was reached on other proposals, that will result in no additional cost. A brief overview of these negotiated MOU sections includes:
    - Terms and Conditions of Employment (Article 6): Reached mutual agreement on topics including, but not limited to, hours of work, furloughs, transfer and reassignment, use of City vehicles, personnel files and records, and labor management meetings.
    - Layoffs (Article 7): Set procedures relating to a reduction in force ("layoff').
    - Grievances (Article 7.2): Established grievance procedures.
    - Employee Separation and Discipline: These topics were addressed in Articles 7.3 and 7.4 respectively. SRMMEA employees remain at-will employees of the City. Procedures for employee separation (i.e. termination) and discipline are defined in their respective articles.
    - Contributions to Retiree Health Savings Account (Article 4.1.2): Changed the voluntary employee contribution from 50 hours to 80 hours of sick time.
    - Wellness Benefit (Article 4.11): Broadens use of the exiting benefit to include reimbursement for health and wellness expenses such as wellness counseling, physical therapy, and smoking cessation programs.
    - Holidays – Days Observed (Article 5.3.1): Recognizes Juneteenth as a City holiday.
    - Paid Parental Leave (Article 5.4.1): Provides 300 hours of paid parent leave for employees following the birth or adoption of a child.
    - End of Life Care Leave (Article 5.4.2): Provides up to 80 hours of paid leave for an employee who is providing care to a family member at the end of their life.
    - Bereavement Leave (Article 5.4.3): Updated existing bereavement language to comply with changes in state law.

FISCAL IMPACT:

The current total annual salary and benefit cost for the 36 FTE employees of SRMMEA is $7,844,973. The additional ongoing incremental cost of the successor MOU beyond the fiscal year 2023-24 budget is:

	Incremental FY 2024-25	Incremental FY 2025-26	Incremental FY 2026-27
Wages:			
Salary	$262,123	$239,027	$232,096
Other Costs:			
Pension*	$106,563	$103,038	$100,081
Taxes (Medicare, WC)	$9,234	$8,367	$8,140
Benefits	$227,109	$42,020	$43,932
Total Annual Incremental Costs:	**$605,030**	**$392,452**	**$384,249**
Total Over Term of Contract	*$1,815,090*	*$784,904*	*$384,249*
			$2,984,243

**This incremental pension cost results only from the negotiated wage increase and does not include the cost of associated MCERA rate changes. The terms and conditions of the pension benefit plan remain unchanged.*

Over the term of the agreement, the contract costs are $2,984,243 for an effective date of July 1, 2024. The increase in compensation included in this resolution is being reflected in the City's FY 2024-25 budget and updated budget projections.

OPTIONS:

The City Council has the following options to consider in this matter:

- Adopt the resolution
- Adopt resolution with modifications.
- Direct staff to return with more information.
- Take no action.

RECOMMENDED ACTION:

Adopt a resolution approving a successor memorandum of understanding (MOU) pertaining to compensation and working conditions for the San Rafael Mid-Management Employee Association (SRMMEA) beginning July 1, 2024, and ending June 30, 2027.

ATTACHMENTS:

1. Resolution with attached MOU between the City of San Rafael and the San Rafael Mid-Management Employee Association (SRMMEA) for July 1, 2024, to June 30, 2027 (and all attachments)
2. Resolution No. 14955

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND SAN RAFAEL MID-MANAGEMENT EMPLOYEE ASSOCIATION (SRMMEA) PERTAINING TO COMPENSATION AND WORKING CONDITIONS (JULY 1, 2024 THROUGH JUNE 30, 2027)

WHEREAS, the City of San Rafael and representatives of SRMMEA have met and conferred in good faith with regard to wages, hours and working conditions in accordance with the provisions of the Meyers-Milias-Brown Act; and

WHEREAS, a Memorandum of Understanding ("MOU") pertaining to the three-year period from July 1, 2024, through June 30, 2027, has been ratified by SRMMEA members.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: From and after the date of adoption of this Resolution, the City of San Rafael and San Rafael Mid-Management Employee Association (SRMMEA) shall utilize the MOU for the period beginning July 1, 2024, attached hereto, as the official document of reference respecting compensation and working conditions for employees represented by SRMMEA.

Section 2: The schedules describing classes of positions and salary ranges are attached to said MOU and, together with the MOU itself, are hereby adopted and shall be attached hereto and incorporated in full.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a special meeting of the City Council of the City of San Rafael, held on the 21st of June 2024, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

_____

Lindsay Lara, City Clerk

MEMORANDUM OF UNDERSTANDING

between

CITY OF SAN RAFAEL

and

SAN RAFAEL MID-MANAGEMENT EMPLOYEE ASSOCIATION

JULY 1, 2024 - JUNE 30, 2027

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LIST OF EXHIBITS

MEMORANDUM OF UNDERSTANDING

between

CITY OF SAN RAFAEL

and

MID-MANAGEMENT EMPLOYEE ASSOCIATION

This Memorandum of Understanding is entered into pursuant to the provisions of Section 3500, et seq. of the Government Code of the State of California.

The Mid-Management Employees Association ("Association") and representatives of the City of San Rafael ("City") have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in said representation unit, and have freely exchanged information, opinions and proposals and have reached MOU on all matters relating to the employment conditions and employer-employee relations of such employees.

This MOU shall be presented to the City Council of the City of San Rafael as the joint recommendation of the undersigned parties for salary and employee benefit adjustments for the period commencing July 1, 2024, and ending June 30, 2027. When approved by the City Council at an open-session meeting, this MOU shall be binding upon the Association, the employees it represents, and the City.

1 GENERAL PROVISIONS

1.1 INTRODUCTION

1.1.1 Scope of MOU

The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City and Association and shall apply to all employees of the City working in the classifications and bargaining unit set forth herein.

In accepting employment with the City of San Rafael, each employee agrees to be governed by and to comply with the City of San Rafael Personnel Ordinance, Rules and Regulations and Administrative Procedures.

1.1.2 Term of MOU

This MOU shall be in effect from July 1, 2024 through June 30, 2027.

1.2 RECOGNITION

1.2.1 Bargaining Unit

The City hereby recognizes the Association as the bargaining representative for the purpose of meeting and conferring regarding wages, hours, and other terms and conditions of employment, for all employees within the Mid Management Employee Association Unit (as referenced in Exhibit B attached). For all new mid-management classifications that the City creates after the adoption of this MOU, the City shall notify the Association of the new classification and either place the classification in the unit or provide an explanation as to why the City believes the Mid Management Employee Association unit is not the proper unit placement. This includes any temporary or fixed term employees in accordance with AB 1484. The composition of the unit may also be appropriately modified in accordance with Employer-Employee Relations Resolution 12189.

1.2.2 Notice to Employees

Whenever a person is hired in any of the job classifications set forth herein, City shall notify such person that the Association is the recognized bargaining representative for employees in that classification.

1.3 NON-DISCRIMINATION

1.3.1 In General

The parties to this contract agree that they shall not, in any manner, discriminate against any person whatsoever because of a legally protected status, including race, color, age, religion, ancestry, national origin, sex, sexual orientation, perceived sexual orientation, marital status, transgender status, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history) or physical or mental disability.

Any employee alleging such discrimination should use the internal, administrative process explained in the City's Policy Against Harassment, Discrimination and Retaliation to report the situation. This administrative procedure shall be used as the internal complaint procedure and not the grievance procedure outlined in this MOU.

1.3.2 Association Discrimination

No member, official, or representative of the Association shall, in any way, suffer any type of discrimination in connection with continued employment, promotion, or otherwise by virtue of membership in or representation of Association.

1.4 MOU DISTRIBUTION

The City shall post an electronic copy of the MOU on the City website within 30 calendar days of final ratification. Any Side Letters to the MOU subsequent to the initial posting of the MOU shall also be posted on the City's website.

1.5 SENIORITY

Whenever seniority is used to determine a working condition (e.g., vacation accrual, vacation cap, severance pay, sick time pay out, etc.), it shall be determined by the employee's original start date with the City, regardless of original status (seasonal, fixed-term, etc.). This provision does not apply to layoffs under Section 7.1.4.

1.6 PEACEFUL PERFORMANCE

The parties to this MOU recognize their mutual responsibility to provide the citizens uninterrupted municipal services, therefore, for the duration of this MOU, and extending through the exhaustion of impasse procedures, the parties agree not to conduct strike or lockout activities. During the term of this MOU, the City agrees that it will not lock out employees, and the Association agrees that it will not agree to, encourage or approve any strike, sympathy strike, or slowdown growing out of any dispute relating to the terms of this MOU. The parties will take whatever lawful steps are necessary to prevent any interruption of work in violation of this MOU

1.7 SEVERABILITY

If any article, paragraph or section of this MOU shall be held to be invalid by operation of law, or by any tribunal of competent jurisdiction, or if compliance with or any enforcement of any provision hereof be restrained by such tribunal, the remainder of this MOU shall not be affected thereby, and the parties shall, if possible, enter into meet-and-confer sessions for the sole purpose of arriving at a mutually satisfactory replacement for such article, paragraph or section.

1.8 EXISTING LAWS, REGULATIONS & POLICIES

All matters within the scope of meeting and conferring which have previously been adopted through rules, regulation, ordinance or resolution, which are not specifically superseded by this MOU, shall remain in full force and effect throughout the term of this MOU.

1.9 FULL UNDERSTANDING, MODIFICATION, WAIVER

1.9.1 Understanding

The parties jointly represent to the City Council that this MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein.

1.9.2 Modification

Any agreement, alteration, understanding, variation, waiver, or modification of any of these terms or provisions contained herein shall not in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, approved and implemented by the City Council.

2 MMBA

2.1 ASSOCIATION RIGHTS

2.1.1 Designation of Association Representatives

The Association shall, by written notice to the City Manager, designate no more than three (3) of its members as Association employee representatives without loss of compensation or other benefits while formally meeting and conferring with representatives of the City on matters within the scope of representation. Association representatives shall be permitted reasonable time for Association activities including grievance representation. In all cases, the representatives shall secure permission from their supervisor before leaving a work assignment. Such permission shall not be unreasonably withheld.

The negotiating team for the Association, shall be comprised of no more than three (3) employees, and shall be permitted to attend negotiating sessions during their work hours with pay. There shall be no compensation for negotiations meetings held outside scheduled work hours of members of the bargaining team.

2.1.2 Bulletin Boards

Authorized representatives of the Association shall be allowed to post Association notices on specified bulletin boards maintained on City premises.

2.1.3 New Members

Whenever the City hires or promotes an employee into any classification covered by this MOU and represented by the Association, the City will inform the Association representatives and the employee, as soon as possible, of the terms and provisions of this MOU and notify the employee that it can review the MOU on the City's website. The City shall make available up to 30 minutes, at a mutually agreeable time, during the initial thirty (30) days of employment in that position for new employee orientation with one (1) representative from the Association, who shall be allowed to attend without loss of pay. The City and the Association intend that time (i.e., up to 30 minutes) will occur at the employee orientation, or as promptly as possible on or after the first day of employment, whenever possible. The City will provide reasonable advance notice to the Association of employee orientations conducted by the City. New employees shall be advised of the potential release of personal information, identified in Employee Information (Article 2.1.4), and shall have the option to request in writing to Human Resources that the City refrain from disclosing such personal information to the Association.

2.1.4 Employee Information

The City shall provide the Association with the name, hire date, job title, department, work location, work phone number, work email address, home and personal cell phone numbers, home address and personal email address on file with the City for all employees within the Association every 120 days. In addition, a report with similar information of each new employee hired or promoted into the unit will be provided to the Association within 30 days of the hire or promotion date. The City shall provide this information regardless of whether the newly hired employee was previously employed by the City. An employee may request that the City refrain from disclosing their home address, home telephone number, personal cellular telephone number, personal email address, or birth date to the Association upon written request to Human Resources.

2.2 DUES DEDUCTION

2.2.1 Collection of Dues

The City shall deduct dues each pay period from the pay of all Association members. Such deductions shall be authorized in writing. The City shall rely on a certification from the Association for the authorization, modification, or cancellation of any/all dues deductions. The City shall remit such funds to the Association within thirty (30) days following their deduction.

The City shall rely on a certification from an Association representative requesting a deduction or reduction that they have and will maintain an authorization, signed by the individual from whose salary or wages the deduction or reduction is to be made. The Association shall maintain individual employee authorizations and shall not be required to provide a copy of an individual authorizations to the City unless a dispute arises about the existence or terms of a particular authorization. The Association shall indemnify the City for any claims made by a bargaining unit member for deductions made in reliance on that certification.

2.2.2 Dues Collection during Separation from Employment

Dues shall not be collected during periods of separation from the representation Unit by any such employee but shall reapply to such employee commencing with the next full pay period following the return of the employee to the representation Unit. The term "separation" includes transfer out of the Unit, layoff, and leave without pay absences with a duration period of more than five (5) working days.

2.2.3 Indemnification

Moneys withheld by the City shall be transmitted to the Treasurer of the Association at the address specified. The Association shall indemnify, defend, and hold the City harmless against any claims made, and against any suit instituted against the City on account of check off of employee organization dues or service fees. In addition, the Association shall refund to the City any amount paid to it in error upon presentation of supporting evidence.

2.3 MANAGEMENT RIGHTS

The City reserves, retains, and is vested with, solely and excessively, all rights of management which have not been expressly abridged by specific provision of this MOU or by law to manage the City, as such rights existed prior to the execution of this MOU. The sole and exclusive rights of management, as they are not abridged by this MOU or by law, shall include, but not be limited to, the following rights:

1. To manage the City generally and to determine the issues of policy;
2. To determine the existence of facts which are the basis of the management decision;

3. To determine the necessity of any organization or any service or activity conducted by the City and expand or diminish services;
4. To determine the nature, manner, means, technology and extent of services to be provided to the public;
5. Methods of financing;
6. Types of equipment or technology to be used;
7. To determine and/or change the facilities, methods, technology, means and size of the work force by which the City operations are to be conducted;
8. To determine and change the number of locations, re-locations and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right (subject to bargaining in accordance with the MMBA) to contract for or subcontract any work or operation of the City;
9. To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish and change work schedules and assignments;
10. To relieve employees from duties for lack of work or other legitimate reasons;
11. To establish and modify productivity and performance programs and standards
12. To discharge, suspend, demote or otherwise discipline employees for proper cause in accordance with the provisions and procedures set forth in City Personnel Rules and Regulations and this MOU;
13. To determine job classifications and to reclassify employees;
14. To hire, transfer, promote and demote employees in accordance with this MOU and the City's Rules and Regulations;
15. To determine policies, procedures and standards for selection, training and promotion of employees;
16. To establish and modify employee and organizational performance and productivity standards and programs including but not limited to, quality and quantity standards; and to require compliance therewith;
17. To maintain order and efficiency in its facilities and operations;
18. To establish and promulgate and/or modify rules and regulations to maintain order and safety in the City which are not in contravention with this MOU;
19. To take any and all necessary action to carry out the mission of the City in emergencies.

The City and the Association agree and understand that if, in the exercise of any of the rights set forth above, the effect of said exercise of rights by the City impacts an area within the scope of representation as set forth in the Meyers/Milias/Brown Act, case law interpreting said act, and/or Federal law, the City shall have the duty to meet and confer with the Association regarding the impact of its decision/exercise of rights.

2.4 COMMENCEMENT OF NEGOTIATIONS

It is mutually agreed to begin the Meet and Confer process no later than three (3) months before the expiration date of this MOU, regarding the terms and conditions applicable to successor MOUs. The process will be initiated by the Association through the submittal of a request to re-negotiate.

3 COMPENSATION

3.1 GENERAL WAGES AND COMPENSATION

3.1.1 Pay Dates

City employees are paid twice per month on the 15th and the last working day of the month. When a holiday falls on a payday, the payday will be transferred to the following day of regular business unless Finance is able to complete the payroll by the previous workday. The method of distributing the payroll shall be established by the Finance Director.

The City calculates 1,950 hours as the annual number of work hours per year (37 .5 hours per work week times 52 weeks per year equals 1,950 hours). Each semi-monthly pay period is calculated at 81.25 hours (1,950 hours divided by 24 pay periods). The hourly rate of pay is calculated by multiplying the monthly rate of pay identified in Exhibit A times 12 months to equal the annual rate of pay, divided by 1,950 hours in a work year, to equal the hourly rate of pay.

The City will modify its pay scheduled to 26 pay periods effective when administratively feasible subject to addressing technical issues and reaching agreement with all bargaining groups.

3.1.2 General Wage Increase

The City shall provide the following salary and equity adjustment increases for the listed positions in each year of the MOU, with Year 1 salary increases to become effective July 1, 2024; or, on the first pay period after Council's approval - whichever occurs later in time as set forth in Exhibit C.

The parties also agree to reopen negotiations during the term of the MOU after January 1, 2025 unless a sooner date is mutually agreed upon to discuss reclassifications and/or equity adjustments for the following classifications: Data & Infrastructure Manager, Assistant Community Development Director, Deputy Building Official and Senior Project Manager.

The effective date of any compensation increases will be July 1, 2024 if the parties complete negotiations within 45 days of the City's initial presentation to the Association of the analysis on each classification. The effective date of any compensation decreases will follow completion of the negotiations on each classification.

3.1.3 Compensation Survey Agencies

When conducting total compensation surveys, the City will survey the following agencies:

> Alameda, Fairfield, Hayward, Napa, Novato, San Leandro, Santa Rosa, South San Francisco, and Vallejo; Corte Madera, Larkspur, Marin County, Mill Valley, Novato, and San Anselmo.

Total Compensation for survey purposes shall be defined as: Top step salary (excluding longevity pay steps), educational incentive pay, holiday pay, uniform allowance, employer paid deferred compensation (except for such portion that may be part of employee cafeteria plan), employer's contribution towards employees' share of retirement, employer's retirement contribution, employer paid contributions towards insurance premiums for health, life, long term disability, dental and vision plans, and employer paid cafeteria/flexible spending accounts.

3.1.4 Compensation Surveys

The City and the Association will jointly survey the identified benchmark positions, which are identified in Exhibit A and included as part of this MOU, in January of the final year of this Agreement.

Identified benchmark positions from other agencies include positions that are filled as well as those that may be unfilled, so long as the benchmark position is identified by the survey agency as being on the salary schedule and having a job class description. Other city/agency positions are established as benchmark positions in San Rafael's compensation survey based upon similar work and similar job requirements.

Survey data will include all salary and benefit increases, as defined in "Total Compensation." The City and the Association shall review the benchmark and related survey data for accuracy and completeness.

3.1.5 Compensation Plan

The Compensation Plan adopted by the City Council shall provide for salary schedules, rates, ranges, steps, and any other special circumstances or items related to the total compensation paid employees.

Each position within the classified services shall be allocated to its appropriate class in the classification plan on the basis of duties and responsibilities. Each class shall be assigned a salary range or a rate established in the salary plan. All persons entering the classified service shall be compensated in accordance with the salary plan then in effect.

3.2 STEP INCREASES

3.2.1 Entry Level Step

All initial employment shall be at the first step of the salary range, provided that the Department Director may make an appointment to a position at an appropriate higher salary when, in their opinion, it is necessary to obtain qualified personnel, or when it appears that the education or experience of a proposed employee is substantially superior to the minimum requirements of the class and justifies a beginning salary in excess of the first step. City Manager approval is required for entry level appointment above Step C for any position.

3.2.2 Annual Performance Evaluations and Step Increases

Employees shall receive an annual performance evaluation on or before their anniversary date. If the employee's performance evaluation is not delivered on or before their anniversary date, and the employee is eligible for a step increase, that step increase will become effective on their anniversary date. If there is a delay in processing the step increase, a retroactive pay adjustment will be processed back to their anniversary date.

Employees shall be eligible for step increases based on the following criteria:

a. Satisfactory performance evaluations meeting or exceeding established performance standards;

b. Completion of one year of continuous service with the city; and

c. Compliance with all applicable workplace policies and regulations.

3.2.3 Temporary Merit Increases

Temporary merit performance increases of five percent (5%) may be granted an employee based upon the recommendation of the Department Director and approval of the City Manager. Employees at the maximum step of their salary range may be granted a merit performance increase of five percent (5%) above and beyond their salary range. A merit increase may be effective for up to one (1) year. A merit increase may be withdrawn and is not a disciplinary action and is not appealable.

3.2.4 Anniversary Date

When an employee is promoted or reclassified to a new position, the first pay date at the new position shall constitute the employee's new anniversary date for purposes of the annual Performance Evaluation.

3.2.5 Promotions

Employees promoted to higher-level positions shall be placed at the step in the new salary range that will provide, at a minimum, a five {5%) increase (unless that would exceed the top step in the salary range).

3.3 SALARY CHANGE ON RECLASSIFICATION

If an occupied position is reclassified the incumbent shall be affected as outlined below:

3.3.1 To a Lower Classification

When a position is re-allocated to a lower classification, the incumbent is either:

1. Transferred to a vacant position in the former classification; or
2. If the incumbent's current salary is greater than the top step of the lower classification, Y-rated at the current salary until the salary of the lower classification is at or above the Y-rate.

3.3.2 To a Different Classification with the Same Salary Range

When a position is reallocated to a different classification with the same salary range, the incumbent shall be granted the same status in the new classification, in which they shall be paid at the same step of the range and shall maintain the same salary rights.

3.3.3 To a Higher Classification

When a position is reclassified to a classification with a higher salary range, the incumbent is moved into the higher classification with the position, except in the circumstances prescribed below. Placement in the salary range shall be in accordance with the appropriate salary pay plan but shall be no less than the employee's current pay rate.

If the duties upon which the reclassification are based could have been assigned to any of a number of employees in that classification within the division or department, then a promotional exam is held for the reclassified position. Such an exam is a departmental only recruitment limited to employees within that classification. If the incumbent is not successful in this competitive process, they are assigned to the position vacated by the promotion.

3.4 SPECIFIED WAGE ADJUSTMENTS / DIFFERENTIALS

3.4.1 Out of Class Compensation

Employees assigned in writing by their Department Director to perform additional duties of a higher paid classification shall be compensated at a rate not less than 5% greater than the employee's current base salary. Eligibility for out-of-class compensation requires a minimum assignment of ten (10) consecutive days.

The out-of-class pay becomes effective on the first day of the assignment. If the assignment extends beyond four consecutive weeks, then the employee shall be compensated at the lower step of the classification within which the duties fall if that is greater than 5% of the employee's base pay. The Department Director is required to complete a Personnel Action Report (PAR), to initiate out-of-class compensation.

3.4.2 Bilingual Pay

Within the job classifications represented by the Union provisions are hereby established whereby an employee may receive bilingual pay for full fluency in a foreign language.

Full fluency is defined as a skill level that will allow the employee to fully assist someone else who does not speak English in coping with situations or problems by translating for, conversing with and/or reading or writing written material.

An employee can petition their Department Director for this bilingual pay incentive. With the Department Director's recommendation and on review by the Human Resources Director and approval of the City Manager the employee may begin to receive this bilingual pay incentive.

Criteria for approval of the bilingual pay incentive by the City Manager includes:

a. Certification by a recognized school of the appropriate skill level; and/or

b. Demonstrated ability of the proficiency level on the job; and

c. Department Director's recommendation and statement that the bilingual skill of the employee can be of value to the department and the employee in the completion of their regular work assignments.

Employees who have been approved for the bilingual pay incentive and are required in the performance of their duties to converse with the public in a language other than English shall receive an additional $200.00 per month above their base salary.

Employees who also translate official written documents to or from a language other than English shall receive an additional $50.00 for a total of $250.00 per month above their base salary.

This bilingual pay incentive shall be reviewed annually and as long as the employee demonstrates (by work experience or re-testing, as determined by the City of San Rafael) the full fluency skill level; and as long as the Department Director indicates the value of this skill to the department and the employee in the completion of their regular work assignments.

Removal of the bilingual pay incentive would be considered a non-disciplinary action however removal of bilingual pay is appealable to the Human Resources Director. The determination of the Human Resources Director is not subject to any appeal/grievance procedure.

3.4.3 Uniform Pay

Unit members who are required to wear a uniform which is not provided by the City, shall receive an annual uniform allowance of $545 per year, paid in two installments, in June and December.

3.4.4 Management Allowance

As of September 16, 2015, the Management Allowance of 4.54% was rolled into base pay for all Mid-Management employees.

4 BENEFITS

Health & Dental Insurance benefits are prorated for part-time employees in accordance with percentage of full-time work schedule. Domestic partners who are registered with the Secretary of State and same-sex spouses are considered dependents under these benefits. Pertinent taxes will be applied to coverage provided to registered domestic partners and same sex spouses as required by federal and state laws.

4.1 HEALTH INSURANCE

4.1.1 Health Insurance for Active Employees

The City provides a full flex cafeteria plan for active employees, in accordance with IRS Code Section 125. Active employees participating in the City's full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the full flex cafeteria plan.

The monthly flex dollar allowance effective the paycheck of July 1, 2024 shall be:

For employee only:	$ 735.86
For employee and one dependent:	$1,471.71
For employee and two or more dependents:	$1,913.24

The monthly flex dollar allowance effective the paycheck of December 15, 2024 shall be:

For employee only:	$ 950.00
For employee and one dependent:	$1,900.00
For employee and two or more dependents:	$2,400.00

Effective December 15, 2025, and December 15, 2026, the flex dollar allowances shall increase on the December 15th paycheck up to a maximum of five percent (5.0%) on an annual basis. If the Kaiser Bay Area premium rate increase is less than five percent (5.0%), the flex dollar allowance shall only increase the amount of the Kaiser Bay Area premium increase. In the event that the Kaiser Bay Area premium rate increase for the upcoming calendar year exceeds ten percent (10%) and is less than fifteen percent (15%), the City and the employee will split the cost of the increase above ten percent (10%) evenly; each paying 50% of the dollar value of the increase between 10-15%. In the unlikely event that the Kaiser Bay Area premium rate increases for the upcoming calendar year in 2026 or 2027 to an amount exceeding fifteen percent (15%), the City and the Association agree to reopen the MOU to negotiate the employer's contribution to healthcare. The parties agree that this provision will sunset upon the expiration of the MOU.

Upon expiration of the MOU, the flex dollar allowances shall increase on the December 15th paycheck of each subsequent year up to a maximum of three percent (3%) on an annual basis, based on but not to exceed the Kaiser Bay Area premium rate increase for the upcoming calendar year.

The City shall contribute to the cost of medical coverage for each eligible employee and their dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The balance of the monthly flex dollar allowance (after the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health benefits.

Conditional Opt-Out Payment: An employee may elect to waive the City's health insurance coverage and receive the value of the Employee Only contribution as a monthly Opt-Out payment in accordance with the terms of the cafeteria plan, and the Affordable Care Act, if the employee complies with the following conditions:

1) The employee certifies that the employee and all individuals in the employee's tax family for whom coverage is waived, have alternative Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act through a provider other than a federal marketplace, a state exchange, or an individual policy.

2) During the City's annual open enrollment period, the employee must complete an annual written attestation confirming that the employee and the other members of the employee's tax family are enrolled in alternative Minimum Essential Coverage. The employee agrees to notify the City no later than 30 days if the employee or other member(s) of the employee's tax family lose coverage under the alternative Minimum Essential Coverage Plan.

3) The employee understands that the City is legally required to immediately stop conditional opt-out payments if the City learns that the employee and/or members of the employee's family do not have the alternative Minimal Essential Coverage.

The City reserves the right to modify at any time, the amount an employee is eligible to receive under this paragraph, if required by IRS Cafeteria Plan regulations, other legislation or Federal and/or California agency guidance.

Miscellaneous Allowance for Employees hired on or before January 1, 2009:

The City shall pay to employees hired on or before January 1, 2009 a miscellaneous allowance in an amount equivalent to the difference between the employee's benefit election for coverage under PEMHCA and their flex dollar allowance, if their benefit election under PEMHCA exceeds their flex dollar allowance. The miscellaneous allowance shall be treated as income. An employee may use the miscellaneous allowance to pay for health coverage on a pre-tax basis as defined under the City's Cafeteria plan.

4.1.2 Health Insurance for Retirees

Mid-Managers Hired Prior to April 1, 2007

The following sections do not apply to temporary or fixed term classifications.

a. **Mid-Managers who retired on or after December 1, 2001,** from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael Mid-Management position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to receive upon retirement the PEMHCA minimum contribution as designated by PEMHCA on an annual basis.

Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage for the retiree, the retiree's spouse/registered domestic partner and/or qualified dependent children (as defined by PEMHCA) capped at the contribution the City makes towards the health coverage of active Mid-Manager employees. The City's longevity contribution shall remain in effect during the lifetime of the Mid-Manager and Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

As described in this subsection, the City shall reimburse retired Mid-Managers and their spouses or registered domestic partners the Medicare Part B standard premium amount as determined by the Centers of Medicare and Medicaid Services (CMS) on an annual basis. To initiate reimbursement, retirees must submit proof of payment of the Medicare Part B premiums to the Human Resources Department. If the Medicare Part B is deducted from social security, the retiree/spouse/domestic partner may submit a copy of the social security check, the Medicare Part B bill, or other relevant documentation. Reimbursements will be processed on a quarterly basis. This reimbursement shall remain in effect for the retired Mid-Manager's life and that of the retired Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

Mid-Managers Hired On Or After April 1, 2007:

b. **Mid-Managers who are hired on or after April 1, 2007**, and who retire from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage, up to $600, for the retiree. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner or dependents. The City's longevity contribution shall cease upon the retired Mid-Manager's death.

The City shall not be responsible for reimbursing retired Mid-Managers and/or their spouses for any Medicare premiums paid by the retired Mid-Manager and/or the retired Mid-Manager's spouse or surviving spouse.

Mid-Manager Hired On Or After January 1, 2009

c. Mid-Managers who are hired on or after January 1, 2009, and who retire from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERS laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

The City shall not be responsible for reimbursing retired Mid-Managers and/or their spouses for any Medicare premiums paid by the retired Mid-Manager and/or the retired Mid-Manager's spouse or surviving spouse.

The City shall additionally make available a retiree health care trust to enable these employees to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by the mandatory annual conversion of 80 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of 75 hours of sick leave after the conversion.

4.1.3 Health and Dependent Care Spending Accounts

City will offer as part of its Section 125 Plan, for as long as such a plan is desired by the Association and available pursuant to the IRS Code. The Flexible Spending Accounts offered by the City include:

a. Healthcare Spending Account: Out-of-pocket medical expenses that qualify under the IRS Code up to the IRS Code limit. Employees are responsible to pay the monthly administrative fee and any increase established by the third-party administrator.
b. Dependent Care Spending Account: Dependent care expenses that qualify under the IRS Code up to the IRS Code Limit. Employees are responsible to pay the monthly administrative fee and any increase established by the third-party administrator.
c. Premium Only Plan: Employee's share of medical insurance premiums shall be deducted from employee's pay with pre-tax dollars as long as such deduction is allowable under the applicable IRS Code.

The City shall establish an annual enrollment period and each employee must re-enroll annually for either plan noted in a. and/or b. above. City shall have the authority to implement changes to

the 125 Programs to comply with changes in applicable IRS laws without having to go through the meet and confer process; however, the City shall notify the Association of any changes as soon as practicable.

4.2 HEALTH INSURANCE PROVIDERS

The City shall have the option, after meeting and consulting with Association representatives, of either contracting with the Public Employees Retirement System (PERS) Health Benefits Division for health insurance or contracting directly with some or all of the providers of health insurance under the PERS program; provided, however, contracting directly with the providers shall not cause any material reduction in insurance benefits from those benefits available under the PERS program.

4.3 DENTAL PLAN

The City shall make available to employees, an additional flex dollar allowance equal to $113 per month to purchase dental coverage under the City's dental plan. The City shall pay dental premiums on behalf of the employee and eligible dependents.

4.4 VISION CARE PLAN

The City will contract for and pay for a vision plan for "employee plus dependent" vision benefits.

4.5 LIFE INSURANCE

The City shall provide a basic group life insurance plan in the amount of $300,000 at no cost to the employee.

4.6 LONG TERM DISABILITY INSURANCE

The City shall provide long term disability (LTD) insurance, at no cost to the employee, with a benefit of two-thirds (2/3) of the employee's monthly salary, up to a maximum benefit of $7500 (reduced by any deductible benefits).

4.7 RETIREMENT CONTRIBUTION

4.7.1 Employer Paid Member Contribution (EPMC)

Each Mid-Manager is responsible for paying the full cost of their employee contribution rate as established by the Marin County Employee Retirement Association.

Effective September 1, 2013, in accordance with MCERA and City administrative requirements, all Mid-Management employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by the Marin County Employees Retirement Association, in addition to the current employee contribution towards pension as determined by MCERA.

4.7.2 COLA

Mid-Managers participating in the Marin County Employee Retirement Association will pay their full share of members' cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Miscellaneous and safety member contribution rates include both the basic and COLA portions (currently 50% of the COLA is charged to members as defined in the 1937 Act).

4.7.3 Retirement Plan

The City shall provide the Marin County Employee Retirement Association 2.7% @55 retirement program to all miscellaneous Mid-Manager subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws. This is based on an employee's single highest year of compensation.

Employees hired on or after July 1, 2011, will receive an MCERA retirement benefit at the formula 2% at 55, calculated based on the average of their highest three years of compensation, in accordance with MCERA regulations. The annual pension adjustment shall be a maximum of 2% COLA. The minimum retirement age is 55.

Employees hired by the City on or after January 1, 2013 who are defined as "new members" of MCERA in accordance with the Public Employees' Pension Reform Act (PEPRA) of 2013, shall be enrolled in the MCERA 2% @ 62 plan for Miscellaneous members. The employee is responsible for paying the employee contribution of half of the total normal cost of the plan, as defined by MCERA, through a payroll deduction. Final compensation will be based upon the highest annual average compensation earnable during the thirty-six (36) consecutive months of employment immediately preceding the effective date of his or her retirement or some other period designated by the retiring employee.

4.7.4 Service Credit for Sick Leave (see section 5.1.5)

Mid-Managers who are eligible to accrue sick leave and who retire from the City of San Rafael, on or after 07/01/95 and within 120 days of leaving City employment (excludes deferred retirements), shall receive employment service credit (incorporated from Resolution #9414, dated July 17, 1995), for retirement purposes only, for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive, and they elect to receive in compensation for at the time of retirement, pursuant to Section 5.1 of this Resolution). This provision will no longer be available to Mid-Managers hired after June 30, 2009.

4.8 STATE DISABILITY INSURANCE (SDI)

Employees will have the full premium cost for SDI coverage automatically deducted from their paycheck and no City contribution will be made toward participation in the plan. It is incumbent upon the employee to keep the City advised of their medical status, within HIPAA guidelines, and eligibility for SDI. With this notification, SDI benefits, as determined by the State, shall be integrated with accrued sick and vacation leave in the following manner:

a. Employee notifies supervisor of disability and need for time off. At the same time employee files for SDI through the State Office.

b. Supervisor verifies from leave records the employee's accrual balances and projects whether or not employee would, under normal circumstances, be placed in a leave without pay status during the time off period.

c. Personnel Action Report (PAR) is completed by the supervisor to document request and approval of extended leave.

d. Human Resources Department, on receipt of the PAR, contacts employee and supervisor to discuss availability of coordination of SDI with leave benefits.

e. Employee's time off is recorded as sick leave and if necessary then vacation leave on timecards submitted by the supervisor to the Payroll Office.

f. Upon receipt of the SDI payments, the employee must endorse the payments over to the City of San Rafael to receive credit for leave taken.

g. Based upon the employee's hourly rate of pay, the Payroll Office computes how much used sick and/or vacation leave time the employee will be credited and credits the employee with those hours. NOTE: The employee may not be credited more than accrued at or during the time of the disability.

h. The Human Resources Department, after notification from Payroll, notifies the employee when they have used all accrued sick and/or vacation time and when leave without pay status (LWOP) begins. Once the employee is on LWOP they would keep any SDI payments received and would be fully responsible for the monthly health, dental and life insurance premiums if they chose to remain in the group plans. FMLA/CFRA provide an exception and are referenced under Section 5.4.8.

4.9 EMPLOYEE ASSISTANCE PLAN

The City provides an Employee Assistance Program (EAP) with confidential personal counseling on work and family related issues such as eldercare, substance abuse, etc. Supervisors may also utilize the EAP to refer employees to counselors for work related assistance.

4.10 DEFERRED COMPENSATION

The City will contribute one and six hundredths percent (1.06%) of base pay into a City-provided deferred compensation plan for each employee in the unit to be paid in installments on a pay period basis following agreement.

4.11 WELLNESS BENEFIT

Employees are eligible to receive up to $16.50 per month reimbursement for all eligible health and wellness expenses as follows: preventative medical examinations (minus any amount paid by a private insurance plan), paid health or gym club memberships, licensed weight loss facility memberships, physical therapy sessions, smoking cessation programs, wellness counseling, acupuncture, or meditation programs. Such reimbursement shall be reported as taxable income to the employee.

5 LEAVES

5.1 SICK LEAVE

5.1.1 Eligibility

Sick leave with pay shall be granted to each eligible employee. Sick leave may not be used at an employee's discretion but shall be allowed only in case of necessity and actual sickness or disability. The employee is required to notify employee's immediate supervisor or Department Director according to department Rules and Regulations or as soon as the employee is aware of the need for the absence and no later than at the beginning of their daily duties.

If an employee has documented sick leave abuse, the employee may be placed on an attendance management plan. The employee shall be taken off an attendance management plan after twelve (12) months unless the pattern of sick leave abuse has continued.

5.1.2 Sick Leave Accrual

Full-time mid-managers shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment. Unused sick leave may be accumulated to any amount. The sick leave accrual rate is prorated for eligible part time employees.

5.1.3 Use of Sick Leave

An employee eligible for sick leave with pay shall be granted such leave for the following reasons:

1. Personal illness of the employee or illness within the immediate family (family member means an employee’s spouse, registered domestic partner, child, including adopted child, a stepchild, or recognized natural child who lives with the employee in a regular

parent-child relationship, parent, including in-laws, and grandparent, or designated person), or for any physical incapacity of the employee resulting from causes beyond the employee's control; or

2. Medical appointments.

In recognition of Mid-Managers' exempt status under FLSA, time off for sick leave purposes shall not be deducted from a Mid- Manager's sick leave accrual, unless the employee is absent for the full workday.

Use of sick leave for work-related injuries or illnesses shall not be required when it is determined by the treating physician that this status is permanent and stationary.

5.1.4 Advance of Sick Leave

Whenever circumstances require, and with the approval of the City Manager, sick leave may be taken in advance of accrual up to a maximum determined by the City Manager, provided that any employee separated from the service who has been granted sick leave that is un-accrued at the time of such separation shall reimburse the City of all salary paid in connection with such un-accrued leave.

5.1.5 Service Credit for Sick Leave (see section 4.7.4)

Employees who retire from the City of San Rafael within 120 days of leaving City employment (excludes deferred retirements) shall receive employment service credit for retirement purposes only for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive and they elect to receive in compensation for at the time of retirement pursuant to Section 5.1.6 Compensation for Unused Portion (Sick Leave Payoff). Employees hired on or after July 1, 2009 are not eligible to receive employment service credit of any accrued, unused sick leave for retirement purposes.

5.1.6 Compensation for Unused Portion

Mid-Managers who leave City service in good standing shall receive compensation (cash in) of all accumulated, unused sick leave based upon the rate of three percent (3%) for each year of service up to a maximum of fifty percent (50%) of their sick leave balance. In the event of the death of an employee, payment for unused sick leave (based upon the previously stated formula) shall be paid to the employee's designated beneficiary.

Mid-Managers may accrue unlimited sick leave for usage purposes. However, a maximum of one thousand, two hundred hours (1,200) accrual applies for cash-in purposes at the time of City separation.

5.2 VACATION LEAVE

5.2.1 Eligibility

Annual vacation with pay shall be granted to each eligible employee. Vacation leave accrual shall be prorated for those employees working less than full time.

5.2.2 Rate of Accrual

Each regular full-time employee (part time regular are prorated) shall accrue vacation at the following rate for continuous service.

Vacation is accrued when an employee is on pay status and is credited on a semi-monthly basis. Eligible employees accrue vacation at the following rate for continuous service performed in pay status:

Years of service Leave	Accrual rate/yearly

1-5 years	15 days
6 years	16 days
7 years	17 days
8 years	18 days
9 years	19 days
10 years	20 days
11 years	21 days
12 years	22 days
13 years	23 days
14 years	24 days
15 plus years	25 days

When an employee is on an approved leave without pay, vacation accrual is prorated based upon paid hours in the pay period. Upon the City's modification of its pay schedule to 26 pay periods, the above accrual rates shall be adjusted to a pay period basis

In recognition of Mid-Managers' exempt status under F.LSA, time off for vacation leave purposes shall not be deducted from a Mid-Manager's vacation accrual unless the employee is absent for the full workday.

5.2.3 Administration of Vacation Leave

The City Manager, upon the recommendation of the Department Director, may advance Vacation leave to a Mid Manager; prior approval is required. No employee may accrue more than 250 Hours of vacation. Vacation accruals will resume once the employee's accumulated vacation balance falls below the allowable cap limit.

Mid-Managers who terminate their employment shall be paid a lump sum for all accrued vacation leave earned prior to the date of termination. Mid-Managers may not utilize accrued vacation, administrative leave time, or personal leave time to extend their retirement date and service credit at the end of their city service.

The time at which an employee may use their accrued vacation leave and the amount to be taken at any one time, shall be determined by employee's Department Director with particular regard for the needs of the City but also, insofar as possible, considering the wishes of the employee.

The Maximum amount of vacation leave that may be taken at any given time shall be that amount that has accrued to the employee concerned, subject to the Department Director's approval. The minimum amount of vacation that may be taken at any given time shall be one-half (1/2) hour (except that as permitted by law, the City shall authorize the use of vacation time in smaller increments to coordinate disability or workers compensation leaves with employee accrued paid time). Vacation leave granted by the City and used by an employee shall be deducted from the employee's vacation leave bank.

If one or more City holidays falls within an annual vacation leave, such holiday shall not be charged as vacation leave, and the vacation leave shall be extended accordingly. Employees may request a temporary waiver of their vacation cap, should a work-related injury prevent use of vacation time. Such requests would need to be in writing, submitted through the department, and receive the approval of the Department Director and the City Manager.

5.3 HOLIDAYS

5.3.1 Paid Holidays

In order to be eligible for compensation for the paid holiday, the employee must both be in paid status on the day before the holiday and on the day after the holiday.

All employees who are required to work on a day designated as an authorized holiday, other than a day on which an election is held throughout the state, shall be paid at the applicable rate of pay for the number of hours actually worked.

When a holiday falls on Saturday or Sunday, the Friday preceding a Saturday holiday or the Monday following a Sunday holiday shall be deemed to be a holiday in lieu of the day observed. By written agreement between any employee who works in the Library or Parking Division and their supervisor, an employee directed to work the observed holiday can bank the holiday time to be scheduled as paid time off at a later date. Holidays will be lost if not used within the same fiscal year, and will not be cashed out at any time during employment or upon separation.

The following paid holidays will be observed:

January 1st	New Year's Day
The third Monday in January	Martin Luther King Jr. Day
The third Monday in February	Washington's Birthday
March 31st	Cesar Chavez Day
The last Monday in May	Memorial Day
June 19th	Juneteenth
July 4th	Independence Day
The first Monday in September	Labor Day
November 11th	Veteran's Day
The fourth Thursday in November	Thanksgiving Day
The fourth Friday in November	Day after Thanksgiving
December 25th	Christmas Day

In addition to designated holidays, employees in this Unit receive one (1) floating holiday. Floating holidays not used are added to the employee's vacation balance. Part-time employees will be paid for holidays on a pro-rated basis.

5.4 OTHER LEAVE

5.4.1 Paid Parental Leave

Eligibility:

Effective July 1, 2024**,** any full time or regular employee who has been continuously employed by the City for at least 12 months prior to the start of the leave shall be eligible for Paid Parental Leave (PPL) to use within 12 months of the following eligible events:

1. Birth of a child of the employee, the employee's spouse, or the employee's registered domestic partner.
2. Placement of a child with the employee for adoption.

For the purposes of PPL, the definition of "parent" and "child" are as defined by the California Family Rights Act.

Benefit and Use:

1. Eligible employees shall be granted 300 PPL hours to use within 12 months of the qualifying event for the purposes of disability due to pregnancy and/or baby bonding. Regular part-time employees shall be eligible for a prorated number of PPL hours, based on scheduled and budgeted FTE.
2. PPL is based on a 12-month rolling calendar. No more than 300 PPL hours may be used in any 12- month period. PPL may not be used or extended beyond the 12-month time frame and any accrued and unused PPL will be forfeited at the end of the 12-month period for the qualifying event.
3. Upon termination of the employee's employment at the City, they will not be paid for any accrued and unused PPL for which they were eligible.
4. PPL is based on the employee's regularly scheduled hourly base wage. It is considered "paid status" for the purpose of merit, seniority, benefit premium contributions, retirement service credit, vacation and sick leave accrual, and City benefit eligibility and contributions.
5. PPL shall be used in a block of continuous time or on an intermittent or reduced schedule. Intermittent leaves or reduced schedules must be arranged and approved by the employee's supervisor in advance.
6. PPL shall run concurrently with FMLA/CFRA and with PDL as set forth in paragraph 7, below. Eligible employees will be reinstated to the same or equivalent position in accordance with FMLA/CFRA protections. This may include altered assignments to accommodate the department's operational needs when the employee is working a reduced work schedule.
7. Pregnancy Disability Leave (PDL): An eligible employee on PDL must reduce their sick leave balance to 40 hours or less to use PPL concurrently with PDL. An eligible employee is not required to further reduce their balance once they have reached the initial threshold of 40 hours or less.

Coordination of Benefits & Leaves:

- PPL taken under this policy will run concurrently with leave under the FMLA, CFRA, and PDL once the eligible employee's sick leave balance is reduced to 40 hours or less.
- PPL will be fully integrated with any short-term disability or California Paid Family Leave program but shall not exceed one hundred percent (100%) of the employee's normal gross salary rate.
- The use of Short-Term Disability (STD) and Paid Family Leave (PFL) will not reduce available hours under the PPL leave entitlement.
- For time covered by FMLA/CFRA job protected leave for baby bonding purposes, PPL must be used prior to other accrued leave or unpaid leave except as discussed in number 7 above.
- If an employee has exhausted FMLA/CFRA entitlements for reasons other than baby bonding, PPL must be used prior to other accrued leaves or Leave Without Pay for arranged leaves for the purpose of baby bonding. Scheduling of non-FMLA/CFRA protected PPL is subject to department approval.

An employee who is eligible for PPL but is on leave for other reasons cannot use PPL except as described in paragraph 7 above.

5.4.2 End of Life Care Leave

Eligibility:

Effective July 1, 2024**,** any full time or regular employee who has been continuously employed by the City for at least 12 months prior to the start of the leave shall be eligible for End of Life Care leave to provide end of life care for an immediate family member, which shall include an employee's spouse, registered domestic partner, child, parent, sibling, parent, parent in-law(s), grandparent, or grandchild.

End of Life care may be used to provide support, assistance and care to an immediate family member, as defined above, who is receiving end of life services through hospice or a medical facility.

Benefit and Use:

1. Eligible employees shall receive 80 hours of End of Life Care leave to be used during their employment with the City for use to support an immediate family member near the end of life, as described above.
2. Upon termination of the employee's employment at the City, they will not be paid for any accrued and unused End of Life Care leave for which they were eligible. Further, if an employee leaves City employment and returns to City service later in their career, the employee shall receive any unused hours from their previous employment with the City but shall not be granted any additional hours of for End of Life Care Leave.
3. End of Life Care leave is based on the employee's regularly scheduled hourly base wage. It is considered "paid status" for the purpose of merit, seniority, benefit premium contributions, retirement service credit, vacation and sick leave accrual, and City benefit eligibility and contributions.
4. End of Life Care leave shall be used in a block of continuous time or on an intermittent or reduced schedule. Intermittent leaves or reduced schedules must be arranged and approved by the employee's supervisor in advance.
5. End of Life Care shall run concurrently with FMLA/CFRA. Eligible employees will be reinstated to the same or equivalent position in accordance with FMLA/CFRA protections. This may include altered assignments to accommodate the department's operational needs when the employee is working a reduced work schedule.

An employee who is eligible for End of Life Care Leave but is on leave for other reasons cannot use PPL except as described in paragraph 5 above.

5.4.3 Bereavement Leave

In the event of the death of an employee's spouse, child, parent, sibling, registered domestic partner, grandchild, grandparent, in-laws, relative who lives or has lived in the home of the employee to such an extent that the relative was considered a member of the immediate family and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, up to five (5) days may be granted for bereavement leave for each death of a family member. The five days may be taken intermittently but must be used within three (3) months of the date of the family member's death.

In those cases where the death involves an individual who had such a relationship with the employee, as defined above, the employee shall sign a simple affidavit describing the relationship and submit this to the Department Director as part of the request for bereavement leave. Unit members may make a request to the Human Resources Director, or their designee, to use bereavement leave for a relative other than those listed above.

The above bereavement clause shall also apply in the event of a reproductive loss for an employee. The City agrees to maintain employee confidentiality related to the reproductive loss leave.

5.4.4 Jury Duty

Employees required to report to jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided that the employee provides advance notice to the Appointing Authority and remits to the City all per diem service fees except mileage or subsistence allowance within thirty days from the termination of such duty.

5.4.5 Military Leave

Military leave shall be granted in accordance with the State of California Military and Veteran's Code as amended from time to time. All employees entitled to military leave shall give the appointing authority and the Department Director an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

5.4.6 Leave of Absence Without Pay

Leave of absence without pay may be granted by the City Manager upon the written request of the employee. Accrued vacation leave must be exhausted prior to the granting of leave without pay.

5.4.7 Industrial Injury Leave

For benefits under Workers Compensation, an employee should report any on the job injury to their supervisor as soon as possible, preferably within twenty-four (24) hours. The Human Resources department coordinates benefits for Worker's Compensation claims. For further information see the City's Workers' Compensation policy located on the website.

Employees of the City who have suffered any disability arising out of and in the course of their employment as defined by the Worker's Compensation Insurance and Safety Act of the State of California are entitled to all benefits allowed them by the Workers' Compensation Insurance and Safety Act of the State of California.

Temporary disability payments (TD) are made to all employees (full and part-time) when a physician reports an employee is unable to perform their job duties due to an industrial injury and the City cannot accommodate the restrictions mandated by their physician. TD is set by State law and is approximately two-thirds of full salary with state-mandated minimums and maximums. For full-time, regular employees, however, the City augments TD payments with salary continuation as follows: Compensation leave payments shall not exceed the employee's regular full pay for the first three 3) calendar months and three-fourths (3/4) of the regular full pay for the following six (6) calendar months.

Sick Leave Usage Post Industrial Injury/Illness

The following rule applies to employees who have an accepted industrial injury/illness: Available accrued sick leave cannot be used for more than 60 calendar days after one of the following has been determined:

a. The employee has reached maximum medical improvement and/or has been determined "permanent and stationary."
b. The employee has been determined to be unable to return to their usual and customary occupation, with or without reasonable accommodation.

Given the above has occurred next steps would include:

a. The interactive process; attempt to locate other appropriate employment within the City.
b. If none are available proceed with termination process, including disability retirement application and/or Skelly process, if appropriate.

5.4.8 Family Medical Leave

Association members agree to adhere to the provisions of the City's Family Medical Leave Policy which is available on the City's website.

5.4.9 Catastrophic Leave

Catastrophic leave shall be in accordance with the City Catastrophic Leave Policy which is available on the City's website.

5.4.10 Absence Without Authorized Leave

An unauthorized absence of an employee for three consecutive workdays shall constitute grounds for termination.

5.4.11 Administrative Leave

Mid-Managers shall receive ten (10) Administrative Leave days (75 hours) each calendar year subject to the approval of the Department Director and the City Manager. An additional three (3) days may be granted at the discretion and with approval of the department director and the City Manager. Unused Administrative Leave shall not carry over from one calendar year to the next, nor shall unused Administrative Leave balances be paid to a Mid-Manager upon their resignation. In recognition of exempt status under FLSA time off for Administrative leave purposes shall not be deducted from a Mid-Manager's administrative leave accrual, unless the employee is absent for the full workday.

6 TERMS & CONDITIONS OF EMPLOYMENT

6.1 HOURS OF WORK

The WORK WEEK will reflect thirty-seven and one-half (37.5) hours for all job classes. Unless otherwise designated, the normal business hours for vacation, sick and administrative leave deduction and sick and administrative leave accrual purposes for Mid-Managers shall be 7.5 hours per day.

6.2 TRANSFERS / REASSIGNMENTS

6.2.1 Types of Transfers

Transfers may be within the same department (intra-departmental) or between departments (inter-departmental). The requirements for each are as follows:

a. Intra-departmental transfers. The Appointing Authority shall have the authority to transfer an employee from a position in one division of a department to a position in the same or similar classification with the same salary range, in the same division or to another division of the same department (at any time and for any duration).

b. **Voluntary Transfers.** An employee may make a written request for transfer to the Human Resources Director to a position in the same or similar classification with the same salary range. Such a transfer may be made on the recommendation of the affected Department Director(s) and the approval of the City Manager.

6.2.2 Minimum Qualifications & Probation

Any persons transferred to a different position shall possess the minimum qualifications for the position.

6.2.3 Transfer Procedures

The City Manager may authorize the transfer of an employee from one position to another of the same or comparable class of work and where the same general type of examination is given for entrance to such a position. Transfers from one department to another department having a different jurisdiction or different function shall be done only with the consent of the Department Directors involved, unless such a transfer is ordered by the City Manager for purpose of economy or efficiency. Any person transferred to a different position shall possess the minimum qualifications for the position. Employees may seek voluntary transfers to positions within the same job class, and/or lower-level job classes as long as the employee meets the minimum qualifications for the position. Employees seeking transfer should submit a completed application to the Human Resources Department. As vacancies occur, transfer candidates may receive consideration along with those on the eligibility list.

6.3 PERSONNEL RULES & REGULATIONS

All represented employees shall follow the City's Personnel Rules and Regulations located on the City's website.

6.4 CITY POLICIES

6.4.1 Drug Free Workplace

All represented employees shall abide by the City's Drug and Alcohol Policy.

6.4.2 Outside Employment Policy

All represented employees shall abide by the City's Outside Employment Policy.

6.5 CITY VEHICLES

Under limited circumstances, a city vehicle may be provided to a represented employees if it is determined to be needed to complete their job duties and upon approval of the City Manager.

6.6 FURLOUGH PLAN

Both the City of San Rafael and the Mid-Management Group employees recognize the current economic condition of the State of California and the City of San Rafael. Through this recognition and in a cooperative spirit the City of San Rafael and these employees have worked expeditiously on the development of a Furlough Program. This Agreement does not mean the City will necessarily implement furloughs; but in the event it is necessary to implement due to continued economic problems in the City of San Rafael the procedures for this Furlough Program shall provide for both Voluntary Time Off (herein described as VTO) and Mandatory Time Off (herein described as MTO).

Voluntary Time Off (VTO).

The needs of the City and the respective departments (as determined by the Department Director and City Manager) will need to be considered in the actual granting of VTO. Any VTO time granted and the resulting savings will have a corresponding impact on the time needed through MTO.

1. An employee's VTO time would count in determining how many hours of MTO an employee needed to take during the fiscal year.

2. Employees who take VTO at a time other than when MTO is taken by other employees will have to take vacation leave, compensatory time off or leave without pay if the MTO results in the closure of the department.

Mandatory Time Off (MTO).

MTO will be taken by the employee during the MTO period when feasible in their respective department (as determined by the Department Director and City Manager). The City will attempt to schedule MTO time in blocks of days (between Christmas and New Years) or individual days next to scheduled holidays and/or weekends.

1. Employees may not take paid vacation time in lieu of designated MTO time.
2. MTO time shall be considered time in pay status for the accrual of leave and eligibility for holidays. MTO time will not impact health, dental and life insurance benefits. At this time MTO time will impact Marin County retirement contributions; but if the Marin County Retirement Association changes it policy on this the City will, effective the first of the month following notice from the Marin County Retirement Association, make the necessary change in the program's administration to correspond with the change in the policy. Any employee who notifies the City no later than 07/30/11 of their retirement date and retires from the Marin County Retirement System during FY 11-12 shall be exempted from the MTO requirements. If said employee did not retire during FY 11-12 as stated, said employee would be docked in pay an amount equivalent to the number of MTO hours taken by other represented employees.
3. MTO time shall apply toward time in service for step increases, completion of probation, and related service credit.
4. Other Terms and Conditions:
    a. The MTO program shall be limited to a maximum five percent (5%) reduction in work hours/pay for the fiscal year. When the maximum MTO reduction (5%) is implemented, the involved employee shall be credited with three (3) days of float time.
    b. Float Time accrued through the MTO Program must be taken in the fiscal year following the furlough, with supervisory approval, or the leave will be forfeited. The float days have no cash value upon termination of employment. If an employee is laid off before having the opportunity to take unused furlough induced float time, said employee would be eligible to take the unused furlough induced float time during the thirty-day layoff notice period.
    c. Should the City of San Rafael experience a financial windfall during the fiscal year that furloughs are implemented, the City agrees to re-open discussions on this Furlough Program.
    d. The City agrees that it will attempt to distribute the dollar value of any MTO time implemented equally over the remaining number of pay periods in the fiscal year.

6.7 PERSONNEL FILES & RECORDS

6.7.1 Confidential Nature of Personnel Records

All personnel records and files and examination materials are confidential. The Human Resources Director shall take all necessary steps to protect the confidentiality of those materials. Disclosure of such records shall be governed by the Public Records Act, Government Code Sections 6250, et. seq.

Individual employees may review their official personnel file maintained by the Human Resources Department and/or respective appointing authority. With the written consent of the employee, the authorized representative of the recognized employee organization may also review that personnel file.

6.7.2 Confidential Nature of Medical Records

All medical records and files are the property of the City of San Rafael. These confidential records and files are to be maintained in a file separate from the employee's personnel file in the Human Resources Department. Disclosure of such records shall be governed by the Public Records Act, Government Code, Section 6250, et. seq.

6.8 MISCELLANEOUS

6.8.1 Gratuities / Solicitation of Contributions

Gratuities and/or solicitation of contributions are not allowed.

6.8.2 Return of City Equipment

Upon termination of employment, all tools, equipment, and other City property assigned to an employee shall be returned to the employee's supervisor before leaving City employment.

6.8.3 Political Activity

The political activity of City employees shall comply with pertinent provisions of State and Federal Law.

6.8.4 Contract Orientation Work Sessions

The City and the Association agree that the individuals having responsibility for the enforcement of the MOU, Association Officers and Department Directors/Supervisors, shall participate in an Annual Contract Orientation Work Session for the purpose of obtaining a better understanding of the provisions of the contract. These work sessions shall be held on City time and facilities.

6.9 LABOR/MANAGEMENT MEETINGS

The City and the Association agree that consultation meetings may contribute to improved employer-employee relations.

The committee shall be comprised of three (3) representatives from the Association and representatives from City Management. The parties agree that committee members may change depending on the subject matter. Meetings may be requested by either party. The party requesting the meeting shall submit a proposed agenda and the receiving party shall acknowledge and confirm the date, time and location of the requested meeting. Unless there is mutual agreement between parties, the committee shall hold no more than **1** meeting each quarter. It is intended that the subject matter will not include issues subject to Article 7.2 Grievance Procedures.

7 REDUCTION IN FORCE

7.1 LAYOFFS

7.1.1 Authority

The City may lay off any represented employee because of lack of work or funds, or organizational alterations, or for reasons of economy or organizational efficiency.

7.1.2 Notice

Employees designated for layoff or demotion shall be notified in writing at least thirty (30) calendar days prior to the anticipated date of termination or demotion. The Association shall also be notified.

7.1.3 Order of Layoff

Layoffs and/or reductions in force shall be made by classification. A classification is defined as a position or number of positions having the same title, job description and salary. Fixed term employees shall be laid off before permanent employees in the affected classification.

7.1.4 Seniority

When two or more employees within a classification will be laid off or reduced, it will be done on the following basis:

a. Seniority within the affected classification will be determinative. Such seniority shall include time served in higher classification(s). The computation of seniority for part-time employees will be credited on a pro rata basis to full-time service. Time spent on a City Manager approved leave of absence without pay does not count toward seniority.

b. If the seniority of two or more employees in the affected classification or higher classification(s) is equal, departmental seniority shall be determinative.

c. If all of the above are equal, date of original hire with the City shall be determinative.

7.1.5 Transfer Rights

The City will make every effort to transfer an employee who is to be affected by a reduction in force to another vacant position for which such employee may qualify. If the vacancy is in the Department from which the employee is being laid off, and within their classification series, reassignment shall be made. An employee will retain their current salary rate upon their initial placement into the position, unless, the employee's salary rate exceeds the top of the salary schedule of any lower classification to which they may be reassigned. The length of eligibility for such transfer will be the period of notification as provided in Section 7.1.2, but no longer than the effective date of such layoff or reduction.

7.1.6 Layoff Impacts

Once the decision has been made to reduce the workforce per this MOU, the City will meet and confer with the Association overall all negotiable impacts of the City's decision to layoff.

7.1.7 Re-Employment

Employees subject to layoff shall be placed on a reemployment list for two (2) years from the effective date of their layoff. Employees placed on a re-employment list must ensure that the City's Human Resources Department is provided with current contact information (mobile phone number and current email) so the employee can be contacted about any reemployment opportunity.

During the two (2) years on the reemployment list, such employees shall be considered for any vacancies occurring in their job classification or classification series, if qualified. Such employees are entitled to be interviewed for such vacancies if they indicate they are interested in being considered for the vacancy. If the vacancy (in their job classification or classification series, if qualified) is in the Department from which the employee was laid off, reappointment shall be made.

Employees offered the right to reinstatement from a reemployment list shall be granted up to fourteen (14) calendar days from the date of notification to decide whether to accept reinstatement. If an employee refuses to be reemployed or does not respond within fourteen (14)

calendar days of notification, the employee will be removed from the reemployment list. Employees who retire from MCERA while on a re-employment list are removed from the re-employment list on the date of their retirement application.

If an employee is reinstated from a reemployment list, their seniority shall be restored. They will not accrue seniority for the time on the reemployment list. Employees reinstated from a reemployment list will have their sick leave balance (on the day of layoff) restored.

7.2 GRIEVANCE PROCEDURE

7.2.1 Definition

Grievance is a dispute which involves the interpretation or application of any provision of this Memorandum of Understanding. A dispute regarding the interpretation of the applicable City's Personnel Rules and Regulations is subject to the grievance procedure up to Step 3 (Human Resources Director). All ordinances, resolutions, rules and regulations which are not specifically covered by the provisions of this Memorandum shall not be subject to the Grievance Procedure.

Grievant may be an individual employee or a group of employees or the Association on behalf of a group of employees or the Association on its own behalf on matters involving the City and Association relationship.

Time limits begin with the day following the event causing the grievance or the day following receipt of a grievance decision.

7.2.2 General Provisions

Employees who participate in the Grievance Procedure by filing a grievance or acting as a witness on the behalf of either party shall be free from discrimination by either the Association or the City.

A grievant has the right to be represented at each stage of the procedure and have access to information that is relevant and necessary to the grievance.

If the City management fails to respond within the specified time limits, the grievance shall, at the request of the Association, be moved to the next step of the procedure. If the Association or a grievant fails to process or appeal a grievance within the specified time limits, the matter shall be deemed withdrawn with prejudice. The parties may by mutual agreement waive the steps in the procedure or agree that a grievance may be filed initially at a higher step.

The Human Resources Department shall act as the central repository for all grievances.

Time limits contained herein may be extended by mutual agreement of the parties. Absence for bona fide reasons by a grievant, the Association representative or any management official involved in responding to the grievance shall automatically extend the time limits by the same number of days of absence.

7.2.3 Procedure

Step 1.

Within ten (10) calendar days of when the grievant knew or should have known of the act or omission causing the grievance, the grievant shall present either in writing or verbally a clear and concise statement of the grievance to the immediate supervisor. Within fifteen (15) calendar days thereafter, the immediate supervisor shall investigate and respond to the allegations of the grievant.

Step 2.

If the grievant is not satisfied with the resolution at Step 1, the grievant must reduce the grievance to writing and present it to the Department Director within ten (10) calendar days. The written

grievance shall contain a statement of facts about the nature of the grievance and shall identify the specific provisions of this Memorandum of Understanding (or applicable City Personnel Rule or Regulation) alleged to be violated, applicable times, places and names of those involved, the remedy or relief requested, and shall be signed by the grievant. The Department Director shall confer with the grievant and within fifteen (15) calendar days respond to the allegations in writing.

Step 3.

If the grievant is not satisfied with the resolution at Step 2, the grievant shall within ten (10) calendar days appeal the matter to the Human Resources Director. The Human Resources Director shall investigate the matter, conduct a hearing if the Human Resources Director deems it appropriate and within fifteen (15) calendar days thereafter, respond to the allegations in writing.

Step 4.

If the grievance remains unresolved after Step 3, the Association may, by written notice to the City's Human Resources Department within ten (10) calendar days after the receipt of the response in Step 3, notify the City that the Association wishes to appeal the Step 3 decision to the City Manager or their designee.

The Association shall submit in writing a written statement of the grievance and deliver a copy to the City Manager or their designee. The written statement shall include the following information:

- The factual basis for the grievance.
- Allegations of the specific wrongful act and harm done.
- The specific portion of the MOU or applicable City Personnel Rule or Regulation that was violated.
- The remedy being sought.
- Copies of Step 1-3 responses.

Within ten (10) calendar days thereafter, the City Manager or their designee may, at their direction, schedule a meeting with the grievant to discuss the matter. After consideration of the facts and an investigation, the City Manager or their designee shall respond to the employee within fifteen (15) calendar days. The City Manager may extend the deadline by fifteen (15) calendar days if further investigation is required. The response shall be in writing. The decision of the City Manager will be final and binding.

The City Manager's decision will be limited as follows:

1. The decision shall neither add to, detract from, nor modify any of the language of the MOU.
2. The decision shall be confined to the precise issues(s) the grievance has raised and that the grievant has submitted.
3. Any monetary award in favor of the grievant may not exceed wages or benefits that the grievant has actually lost as a result of the matters alleged in the grievance. In no event shall any grievance award include any compensatory damages or attorney's fees.

7.3 EMPLOYMENT SEPARATION

Represented employees are at-will employees of the City.

7.3.1 Separations Requiring Severance

Except employees who have committed an abuse of office or position as defined by Government Code Section 53243.4 or committed a violation of the Fair Employment and Housing Act, a mid-management unit employee who is involuntarily separated shall receive severance pay in a lump sum equal to the following provided they sign a settlement and general release provided by the City:

- 1 year of service = two-months of salary and two month of COBRA health insurance.
- 2 years of service = three-months of salary and three months of COBRA health insurance.
- 3 years of service = four-months of salary and four months of COBRA health insurance.
- 4 years of service = five-months of salary and five months of COBRA health insurance.
- 5 years of service = six-months of salary and six months of COBRA health insurance.

7.3.2 Separations Not Requiring Severance

For employees who have committed an abuse of office or position as defined by Government Code Section 53243.4 or committed a violation of the Fair Employment and Housing Act, the City shall provide the employee with a notice of intent to terminate prior to imposition. This document shall set forth the grounds for termination, the facts supporting the grounds, and all evidence upon which the termination is taken. In addition, the notice will advise the employee of their right to respond to the proposed termination either in writing or orally at a meeting and identify who from the City to contact if the employee decides to respond to the termination.

Any response must be received by the City within fifteen (15) calendar days of the employee receiving the notice of intent to terminate. The meeting, if requested by the employee, shall take place at a mutually agreeable time within fifteen (15) days (unless mutually agreed to be extended by the parties) of the employee's request at a location determined by the City. If the employee does not provide a written response or request a meeting within the time limits, termination will be imposed. The employee has the right to be represented at all stages of this process.

If termination is imposed, the City shall issue a final notice of termination. The notice shall include the same information as what is required for a notice of intent. The notice shall also set forth the employee's appeal rights advising the employee that if they wish to appeal the termination, they must do so in writing by serving a notice of appeal to the Human Resources Director within fifteen (15) calendar days. The notice of termination will set forth the effective date of the termination.

The City's Human Resources Director or their designee shall contact either the employee or their identified representative within ten (10) calendar days (unless the date is extended by mutual agreement of the parties) of receipt of the notice of appeal to determine whether the parties can agree on an advisory arbitrator to hear the appeal. If the parties can agree, the representative for the City shall contact the agreed upon arbitrator to determine their availability for the hearing. If the parties cannot reach agreement on an arbitrator, the Human Resources Director or designee will send a letter to the Public Employment Relations Board requesting a list of seven (7) arbitrators. Once the list is received, the representatives of the parties shall strike names until an arbitrator is chosen. The parties shall toss a coin to determine who shall strike the first name, and proceed until one (1) name remains, and that person shall be the arbitrator. Once the arbitrator is selected, the parties will contact the arbitrator to schedule a hearing. During the hearing, the formal rules of evidence do not apply. The arbitration may be conducted virtually based on mutual agreement of the parties.

The cost of the list of arbitrators, and the arbitrator themselves, shall be split between the City and the Association if the Association is financially supporting the appeal. Any arbitration expenses incurred as the result of a postponement or cancellation of a hearing shall be borne by the postponing or cancelling party. If either party wishes to have a transcript of the arbitration

proceedings, the requesting party will be solely responsible for all costs associated with the transcript. If both parties request a transcript, the cost will be shared equally. Each party shall arrange for and pay expenses of witnesses that are called by such party, except that any City employee called as a witness shall be released from work without loss of compensation or other benefits for the time needed to testify at the arbitration hearing. Arrangements for employee witnesses shall be made through the Human Resources Director, or designee at least three (3) calendar days in advance of the hearing date.

The arbitrator's decision will be limited to whether the employee committed an abuse of office or position as defined by Government Code Section 53243.4 or committed a violation of the Fair Employment and Housing Act, which the City must prove by a preponderance of the evidence. The arbitrator shall issue their advisory recommendation within thirty (30) calendar days from the conclusion of the hearing unless the period has been mutually extended in writing by the parties. Once the arbitrator issues their advisory recommendation, they will submit it to the City Manager as well as both parties' representatives.

Within thirty (30) days of receipt of the advisory arbitrator's recommendation, the City Manager shall issue and send their final written decision to the parties. The City Manager may accept, reject or modify the advisory arbitrator's recommendation or any part thereof. The City Manager's decision shall be final and binding. In reaching their decision, the City Manager shall review the advisory arbitrator's recommendation and the evidence, both documentary and testimonial, and arguments presented to the advisory arbitrator. The employee has the right to appeal the City Manager's decision in accordance with California Code of Civil Procedure section 1094.5 that provides a 90-day statute of limitations.

7.4 DISCIPLINE

The City retains the management right to discipline unit members. However, the City agrees that the Association has the right to represent members should the City decide to issue discipline. Discipline may be initiated for reasons, including, but not limited to, employee misconduct, violations of law and/or City or Department rule, policy, or procedure.

The City shall provide timely notice in writing to the employee and the Association of any disciplinary action being taken. This document shall set forth the grounds for discipline, the facts supporting the grounds, and all evidence upon which the discipline is taken.

For discipline that does not result in loss of pay or title, represented employees may submit a written response to the discipline and the City shall include it with the discipline if the City puts the discipline in the employee's personnel file.

For any discipline that results in loss of pay or title, the City shall allow the employee and an Association representative to respond to the proposed discipline orally or in writing prior to the discipline being imposed. Any response must be received by the City within fifteen (15) calendar days of the employee receiving the notice of intent to discipline. If the City imposes discipline, and the employee submitted a written response to the proposed discipline, the City shall include it with the discipline in the employee's personnel file

MID-MANAGEMENT EMPLOYEE ASSOCIATION:	CITY OF SAN RAFAEL:
Jeffrey Natke, Chief Negotiator **City Employee Associates, LLC**	**Tim Davis, Chief Negotiator** **Burke Williams Sorensen**
Thomas Wong, Senior Management Analyst II	**Nick Biss, Principal HR Analyst**
Date	**Date**

SAN RAFAEL UNREPRESENTED MID-MANAGEMENT

SALARY SCHEDULE

Effective July 1, 2024

Grade	Position	A	B	C	D	E
2303	Assistant Community Development Director	$ 13,025	$ 13,676	$ 14,360	$ 15,078	$ 15,832
2304	Assistant Community & Economic Development Director	$ 13,676	$ 14,360	$ 15,078	$ 15,832	$ 16,624
2400	Assistant Library and Recreation Director	$ 12,036	$ 12,638	$ 13,270	$ 13,933	$ 14,630
2202	Assistant Public Works Director	$ 13,530	$ 14,207	$ 14,917	$ 15,663	$ 16,446
2302	Chief Building Official	$ 12,574	$ 13,202	$ 13,863	$ 14,556	$ 15,284
4203	Civic Engagement Manager	$ 10,843	$ 11,385	$ 11,955	$ 12,552	$ 13,180
2122	Code Enforcement Supervisor	$ 8,186	$ 8,595	$ 9,025	$ 9,477	$ 9,950
4204	Data & Infrastructure Manager	$ 11,667	$ 12,251	$ 12,863	$ 13,506	$ 14,182
4213	Deputy Building Official	$ 11,101	$ 11,656	$ 12,239	$ 12,851	$ 13,493
7125	Deputy Director of Emergency Management	$ 13,531	$ 14,207	$ 14,918	$ 15,663	$ 16,447
2120	Deputy Fire Marshall	$ 10,702	$ 11,237	$ 11,799	$ 12,389	$ 13,009
TBD	Deputy PW Administrative Services Director	$ 12,292	$ 12,907	$ 13,552	$ 14,230	$ 14,941
2135	Deputy Public Works Director	$ 12,292	$ 12,907	$ 13,552	$ 14,230	$ 14,941
7117	Emergency Services Manager	$ 9,883	$ 10,377	$ 10,896	$ 11,441	$ 12,013
2137	Housing Manager	$ 11,844	$ 12,436	$ 13,058	$ 13,710	$ 14,396
2208	Operations and Maintenance Manager	$ 11,300	$ 11,865	$ 12,459	$ 13,082	$ 13,736
2208	Operations and Maintenance Manager (SRSD)	$ 11,300	$ 11,865	$ 12,459	$ 13,082	$ 13,736
TBD	Operations & Maintenance Superintendent	$ 10,124	$ 10,631	$ 11,162	$ 11,720	$ 12,306
2703	Parking Services Manager	$ 10,326	$ 10,842	$ 11,385	$ 11,954	$ 12,551
7312	Parks Superintendent	$ 10,124	$ 10,631	$ 11,162	$ 11,720	$ 12,306
2116	Planning Manager	$ 11,844	$ 12,436	$ 13,058	$ 13,710	$ 14,396
2206	Principal Civil Engineer (SRSD)	$ 13,806	$ 14,497	$ 15,222	$ 15,983	$ 16,782
4206	Product Manager	$ 10,843	$ 11,385	$ 11,955	$ 12,552	$ 13,180
8103	Recreation Supervisor	$ 8,531	$ 8,957	$ 9,405	$ 9,875	$ 10,369
9511	Risk Manager	$ 11,508	$ 12,084	$ 12,688	$ 13,322	$ 13,988
7317	Senior Code Enforcement Supervisor	$ 9,036	$ 9,487	$ 9,962	$ 10,460	$ 10,983
2101	Senior Management Analyst I	$ 8,384	$ 8,803	$ 9,243	$ 9,705	$ 10,191
2105	Senior Management Analyst II	$ 9,982	$ 10,481	$ 11,005	$ 11,555	$ 12,133
2203	Senior Project Manager	$ 10,021	$ 10,522	$ 11,048	$ 11,600	$ 12,181
8102	Senior Recreation Supervisor	$ 9,643	$ 10,125	$ 10,631	$ 11,163	$ 11,721
7310	Sewer Maintenance Superintendent	$ 10,124	$ 10,631	$ 11,162	$ 11,720	$ 12,306
7311	Street Maintenance Superintendent	$ 10,124	$ 10,631	$ 11,162	$ 11,720	$ 12,306
7245	Supervising Librarian	$ 8,737	$ 9,174	$ 9,632	$ 10,114	$ 10,620
2150	Sustainability Program Manager	$ 8,573	$ 9,002	$ 9,452	$ 9,925	$ 10,421

SAN RAFAEL UNREPRESENTED MID-MANAGEMENT

SALARY SCHEDULE

Effective July 1, 2025

Grade	Position	A	B	C	D	E
2303	Assistant Community Development Director	$ 13,416	$ 14,086	$ 14,791	$ 15,530	$ 16,307
2304	Assistant Community & Economic Development Director	$ 14,086	$ 14,791	$ 15,530	$ 16,307	$ 17,122
2400	Assistant Library and Recreation Director	$ 12,698	$ 13,333	$ 14,000	$ 14,700	$ 15,435
2202	Assistant Public Works Director	$ 14,139	$ 14,846	$ 15,588	$ 16,368	$ 17,186
2302	Chief Building Official	$ 13,140	$ 13,797	$ 14,486	$ 15,211	$ 15,971
4203	Civic Engagement Manager	$ 11,440	$ 12,012	$ 12,612	$ 13,243	$ 13,905
2122	Code Enforcement Supervisor	$ 8,555	$ 8,982	$ 9,431	$ 9,903	$ 10,398
4204	Data & Infrastructure Manager	$ 12,017	$ 12,618	$ 13,249	$ 13,912	$ 14,607
4213	Deputy Building Official	$ 11,434	$ 12,006	$ 12,606	$ 13,236	$ 13,898
7125	Deputy Director of Emergency Management	$ 14,139	$ 14,846	$ 15,589	$ 16,368	$ 17,187
2120	Deputy Fire Marshall	$ 11,184	$ 11,743	$ 12,330	$ 12,947	$ 13,594
TBD	Deputy PW Administrative Services Director	$ 12,845	$ 13,488	$ 14,162	$ 14,870	$ 15,614
2135	Deputy Public Works Director	$ 12,845	$ 13,488	$ 14,162	$ 14,870	$ 15,614
7117	Emergency Services Manager	$ 10,180	$ 10,688	$ 11,223	$ 11,784	$ 12,373
2137	Housing Manager	$ 12,495	$ 13,120	$ 13,776	$ 14,465	$ 15,188
2208	Operations and Maintenance Manager	$ 11,922	$ 12,518	$ 13,144	$ 13,801	$ 14,491
2208	Operations and Maintenance Manager (SRSD)	$ 11,922	$ 12,518	$ 13,144	$ 13,801	$ 14,491
TBD	Operations & Maintenance Superintendent	$ 12,784	$ 13,423	$ 14,094	$ 14,799	$ 15,539
2703	Parking Services Manager	$ 10,791	$ 11,330	$ 11,897	$ 12,492	$ 13,116
7312	Parks Superintendent	$ 10,529	$ 11,056	$ 11,609	$ 12,189	$ 12,798
2116	Planning Manager	$ 12,495	$ 13,120	$ 13,776	$ 14,465	$ 15,188
2206	Principal Civil Engineer (SRSD)	$ 14,221	$ 14,932	$ 15,678	$ 16,462	$ 17,285
4206	Product Manager	$ 11,440	$ 12,012	$ 12,612	$ 13,243	$ 13,905
8103	Recreation Supervisor	$ 8,829	$ 9,271	$ 9,734	$ 10,221	$ 10,732
9511	Risk Manager	$ 11,854	$ 12,446	$ 13,069	$ 13,722	$ 14,408
7317	Senior Code Enforcement Supervisor	$ 9,442	$ 9,914	$ 10,410	$ 10,931	$ 11,477
2101	Senior Management Analyst I	$ 8,761	$ 9,199	$ 9,659	$ 10,142	$ 10,649
2105	Senior Management Analyst II	$ 10,431	$ 10,953	$ 11,500	$ 12,075	$ 12,679
2203	Senior Project Manager	$ 10,322	$ 10,838	$ 11,380	$ 11,949	$ 12,546
8102	Senior Recreation Supervisor	$ 10,173	$ 10,682	$ 11,216	$ 11,777	$ 12,366
7310	Sewer Maintenance Superintendent	$ 10,529	$ 11,056	$ 11,609	$ 12,189	$ 12,798
7311	Street Maintenance Superintendent	$ 10,529	$ 11,056	$ 11,609	$ 12,189	$ 12,798
7245	Supervising Librarian	$ 9,261	$ 9,724	$ 10,210	$ 10,721	$ 11,257
2150	Sustainability Program Manager	$ 9,174	$ 9,632	$ 10,114	$ 10,620	$ 11,150

SAN RAFAEL UNREPRESENTED MID-MANAGEMENT

SALARY SCHEDULE

Effective July 1, 2026

Grade	Position	A	B	C	D	E
2303	Assistant Community Development Director	$ 13,818	$ 14,509	$ 15,235	$ 15,996	$ 16,796
2304	Assistant Community & Economic Development Director	$ 14,509	$ 15,235	$ 15,996	$ 16,796	$ 17,636
2400	Assistant Library and Recreation Director	$ 13,333	$ 14,000	$ 14,700	$ 15,435	$ 16,206
2202	Assistant Public Works Director	$ 14,705	$ 15,440	$ 16,212	$ 17,022	$ 17,874
2302	Chief Building Official	$ 13,665	$ 14,348	$ 15,066	$ 15,819	$ 16,610
4203	Civic Engagement Manager	$ 12,012	$ 12,612	$ 13,243	$ 13,905	$ 14,600
2122	Code Enforcement Supervisor	$ 8,897	$ 9,342	$ 9,809	$ 10,299	$ 10,814
4204	Data & Infrastructure Manager	$ 12,378	$ 12,997	$ 13,647	$ 14,329	$ 15,045
4213	Deputy Building Official	$ 11,777	$ 12,366	$ 12,984	$ 13,633	$ 14,315
7125	Deputy Director of Emergency Management	$ 14,705	$ 15,440	$ 16,212	$ 17,023	$ 17,874
2120	Deputy Fire Marshall	$ 11,631	$ 12,213	$ 12,824	$ 13,465	$ 14,138
TBD	Deputy PW Administrative Services Director	$ 13,359	$ 14,027	$ 14,729	$ 15,465	$ 16,238
2135	Deputy Public Works Director	$ 13,359	$ 14,027	$ 14,729	$ 15,465	$ 16,238
7117	Emergency Services Manager	$ 10,485	$ 11,009	$ 11,560	$ 12,138	$ 12,744
2137	Housing Manager	$ 13,120	$ 13,776	$ 14,465	$ 15,188	$ 15,947
2208	Operations and Maintenance Manager	$ 12,518	$ 13,144	$ 13,801	$ 14,491	$ 15,216
2208	Operations and Maintenance Manager (SRSD)	$ 12,518	$ 13,144	$ 13,801	$ 14,491	$ 15,216
TBD	Operations & Maintenance Superintendent	$ 13,359	$ 14,027	$ 14,729	$ 15,465	$ 16,238
2703	Parking Services Manager	$ 11,222	$ 11,784	$ 12,373	$ 12,991	$ 13,641
7312	Parks Superintendent	$ 10,950	$ 11,498	$ 12,073	$ 12,676	$ 13,310
2116	Planning Manager	$ 13,120	$ 13,776	$ 14,465	$ 15,188	$ 15,947
2206	Principal Civil Engineer (SRSD)	$ 14,647	$ 15,380	$ 16,149	$ 16,956	$ 17,804
4206	Product Manager	$ 12,012	$ 12,612	$ 13,243	$ 13,905	$ 14,600
8103	Recreation Supervisor	$ 9,138	$ 9,595	$ 10,075	$ 10,579	$ 11,108
9511	Risk Manager	$ 12,209	$ 12,820	$ 13,461	$ 14,134	$ 14,840
7317	Senior Code Enforcement Supervisor	$ 9,820	$ 10,311	$ 10,827	$ 11,368	$ 11,936
2101	Senior Management Analyst I	$ 9,112	$ 9,567	$ 10,045	$ 10,548	$ 11,075
2105	Senior Management Analyst II	$ 10,848	$ 11,391	$ 11,960	$ 12,558	$ 13,186
2203	Senior Project Manager	$ 10,631	$ 11,163	$ 11,721	$ 12,307	$ 12,922
8102	Senior Recreation Supervisor	$ 10,682	$ 11,216	$ 11,777	$ 12,366	$ 12,984
7310	Sewer Maintenance Superintendent	$ 10,950	$ 11,498	$ 12,073	$ 12,676	$ 13,310
7311	Street Maintenance Superintendent	$ 10,950	$ 11,498	$ 12,073	$ 12,676	$ 13,310
7245	Supervising Librarian	$ 9,817	$ 10,308	$ 10,823	$ 11,364	$ 11,932
2150	Sustainability Program Manager	$ 9,816	$ 10,306	$ 10,822	$ 11,363	$ 11,931

San Rafael Mid-Management Association
Represented Classifications

Assistant Community Development Director
Assistant Director of Community and Economic Development
Assistant Library and Recreation Director
Assistant Public Works Director
Chief Building Official
Civic Engagement Manager
Code Enforcement Supervisor
Data & Infrastructure Manager
Deputy Building Official
Deputy Director of Emergency Management
Deputy Fire Marshal
Deputy Public Works Administrative Director
Deputy Public Works Director
Emergency Services Manager
Housing Manager
Operations and Maintenance Manager
Operations and Maintenance Superintendent
Parking Services Manager
Parks Superintendent
Planning Manager
Principal Civil Engineer (SRSD)
Product Manager

San Rafael Mid-Management Association
Represented Classifications

Recreation Supervisor
Risk Manager
Senior Code Enforcement Supervisor
Senior Management Analyst I
Senior Management Analyst II
Senior Project Manager
Senior Recreation Supervisor
Sewer Maintenance Superintendent
Street Maintenance Superintendent
Supervising Librarian
Sustainability Program Manager
Climate Adaptation and Resilience Planner (Advanced Professional Temp Fixed Term)
Wildfire Prevention Program Manager (Advanced Professional Temp Fixed Term)
Enterprise Applications Manager (Advanced Professional Temp Fixed Term)
Police Senior Project Manager (Advanced Professional Temp Fixed Term)
All Fixed Term positions in any of the classifications above

San Rafael Mid-Management Association
Salary & Equity Adjustments (2024-2027)

The City shall provide the following salary and equity adjustments increases for the listed positions in each year of the MOU, with Year 1 salary increases to become effective July 1, 2024; or, on the first pay period after Council's approval – whichever occurs later in time:

		Year 1			Year 2			Year 3		
Department	**Classification**	**COLA (%)**	**Equity (%)**	**Total (%)**	**COLA (%)**	**Equity (%)**	**Total (%)**	**COLA (%)**	**Equity (%)**	**Total (%)**
CDD	Chief Building Official	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
CDD	Code Enforcement Supervisor	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
CDD	Economic Development Coordinator	3.00	1.00	**4.00**	3.00	1.00	**4.00**	3.00	1.00	**4.00**
CDD	Housing Manager	3.00	3.00	**6.00**	3.00	2.50	**5.50**	3.00	2.00	**5.00**
CDD	Planning Manager	3.00	3.00	**6.00**	3.00	2.50	**5.50**	3.00	2.00	**5.00**
CDD	Senior Code Enforcement Supervisor	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
CM	Sustainability Program Manager	3.00	4.00	**7.00**	3.00	4.00	**7.00**	3.00	4.00	**7.00**
Digital	Civic Design Manager	3.00	3.00	**6.00**	3.00	2.50	**5.50**	3.00	2.00	**5.00**
Digital	Product Manager	3.00	3.00	**6.00**	3.00	2.50	**5.50**	3.00	2.00	**5.00**
DPW	Assistant Public Works Director/City Engineer	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
DPW	Deputy Public Works Director	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
DPW	Operations and Maintenance Manager	3.00	3.00	**6.00**	3.00	2.50	**5.50**	3.00	2.00	**5.00**
DPW	Parks Superintendent	3.00	1.00	**4.00**	3.00	1.00	**4.00**	3.00	1.00	**4.00**
DPW	Sewer Maintenance Superintendent	3.00	1.00	**4.00**	3.00	1.00	**4.00**	3.00	1.00	**4.00**
DPW	Street Maintenance Superintendent	3.00	1.00	**4.00**	3.00	1.00	**4.00**	3.00	1.00	**4.00**
Fire	Deputy Fire Marshall	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
Library/Rec	Assistant Library and Recreation Director	3.00	3.00	**6.00**	3.00	2.50	**5.50**	3.00	2.00	**5.00**
Library/Rec	Recreation Supervisor	3.00	0.50	**3.50**	3.00	0.50	**3.50**	3.00	0.50	**3.50**
Library/Rec	Senior Recreation Supervisor	3.00	3.00	**6.00**	3.00	2.50	**5.50**	3.00	2.00	**5.00**
Library/Rec	Supervising Librarian	3.00	3.00	**6.00**	3.00	3.00	**6.00**	3.00	3.00	**6.00**
Parking	Parking Services Manager	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
Misc.	Deputy Director of Emergency Management	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
Misc.	Senior Management Analyst I	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
Misc.	Senior Management Analyst II	3.00	2.00	**5.00**	3.00	1.50	**4.50**	3.00	1.00	**4.00**
All Other Classifications		*3.00*	*0.00*	***3.00***	*3.00*	*0.00*	***3.00***	*3.00*	*0.00*	***3.00***
~~CDD~~	~~Economic Development Coordinator~~	*Positions proposed to be eliminated*								
~~CDD~~	~~Economic Development Manager~~									

RESOLUTION NO. 14955

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL ESTABLISHING THE COMPENSATION AND WORKING CONDITIONS FOR UNREPRESENTED MID-MANAGEMENT EMPLOYEES (July 1, 2021 through June 30, 2024)

WHEREAS, the Salary Resolution establishing the terms of compensation for the Unrepresented Mid-Management group expired on June 30, 2021; and

WHEREAS, Unrepresented Mid-Management employees were subject to a 5% furlough reduction for Fiscal Year 2020-21; and

WHEREAS, year-end review of the FY 20-21 budget shows that the City's projected revenue losses anticipated due to the pandemic did not materialize as expected and the City is in a financial position to issue repayment of the furlough reduction; and

WHEREAS, the circumstances that make it possible for the City to reimburse employees for the furlough are extremely unique in nature and this one-time reimbursement for FY 20-21 is non-precedential;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of San Rafael hereby approve the following compensation and working conditions for Unrepresented Mid-Management employees and repayment of the furlough reduction taken for FY 20-21.

1. MID-MANAGEMENT EMPLOYEES

The Mid-Management Employees of the City of San Rafael are the Mid-Management Job Class Titles ("Mid-Managers") enumerated in Exhibit A, attached hereto and incorporated herein. This Resolution shall constitute the compensation and conditions of employment for the Mid-Managers for the period from July 1, 2021 through June 30, 2024.

2. SALARY AND COMPENSATION GOALS

A. GOALS AND COMPENSATION DEFINITIONS

It is the goal of the City Council to try to achieve a total compensation package for all Mid-Managers that is competitive compared to similar cities in our labor market. The survey cities are Fairfield, Hayward, San Leandro, South San Francisco, Alameda, Napa, Novato and Santa Rosa. The Council's goal is to attract and retain the most qualified Mid-Managers in accordance with the City's ability to pay.

Total Compensation for survey purposes shall be defined as: Top step salary (excluding longevity pay steps), educational incentive pay, holiday pay, uniform allowance, employer paid deferred compensation (except for such portion that may be part of employee cafeteria plan), employer's contribution towards employees' share of retirement, employer's retirement contribution, employer paid contributions toward insurance premiums for health, life, long term disability, dental and vision plans, management allowance, and employer paid cafeteria/flexible spending accounts.

B. COMPENSATION SURVEYS

In order to measure progress towards the above-stated goal, the City shall survey the identified Management benchmark positions (Exhibit B) to assess the related Mid-Management positions in the final year of the Resolution in advance of discussions regarding a successor Resolution.

Identified benchmark positions from other agencies include positions that are filled as well as those that may be unfilled, so long as the benchmark position is identified by the survey agency as being on the salary schedule and having a job class description. Other city/agency positions are established as

benchmark positions in San Rafael's compensation survey based upon similar work and similar job requirements.

The City shall review the benchmark and related survey data for accuracy and completeness. The City shall provide the survey data to all Mid-Managers. During the term of this Resolution, Mid-Managers agree to work with the City to identify and implement a new benchmark strategy such as an alignment of Mid-Manager salaries with the respective department director.

C. SALARY INCREASES

Prior year contract extension – restoration of 3% base wage: For FY 20-21, all bargaining groups (except WCE, Local 1, Mid-Management and Executive Management) received a 3% base wage increase for the 1-year contract extension which was implemented for FY 20/21. The timing of the COVID-19 pandemic and the associated financial losses which were projected at that time, resulted in an unintended disparate treatment of the bargaining groups. WCE, Local 1, Mid-Management and Executive Management did not receive this same 3% base wage increase for FY 20-21. However, the City is now in a financial position to "restore" the 3% base wage increase to those groups. The 3% base wage increase will apply to all mid-management positions and is reflected in the salaries listed in the attached salary schedule.

Individual classification salary increase percentages depend on the labor market adjustment applied to each position. The salary schedule included with this salary resolution authorizes the proposed new salary for each position.

3. INSURANCE

Health & Dental Insurance benefits are prorated for part-time employees in accordance with the percentage of full-time work schedule. Domestic partners who are registered with the Secretary of State and same-sex spouses are considered dependents under these benefits. Pertinent taxes will be applied to coverage provided to registered domestic partners and same sex spouses as required by federal and state laws.

A. HEALTH INSURANCE

1. **Health Insurance for Active Employees**. Effective January 1, 2009, the City implemented a full flex cafeteria plan for active employees, in accordance with IRS Code Section 125. Active employees participating in the City's full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the full flex cafeteria plan.

   The monthly flex dollar allowance effective the paycheck of December 15, 2020 shall be:

For employee only:	$ 673.42
For employee and one dependent:	$1,346.82
For employee and two or more dependents:	$1,750.88

   Flex dollar allowances shall increase on the December 15th paycheck of each subsequent year by up to a maximum of three percent (3%) on an annual basis, based on but not to exceed the Kaiser Bay Area premium rate increase for the upcoming calendar year.

   The City shall contribute to the cost of medical coverage for each eligible employee and his/her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The balance of the monthly flex dollar allowance (after the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health benefits or may be converted to taxable income.

Conditional Opt-Out Payment: An employee may elect to waive the City's health insurance coverage and receive the value of the Employee Only contribution as a monthly Opt-Out payment in accordance with the terms of the cafeteria plan, and the Affordable Care Act, if the employee complies with the following conditions:

1) The employee certifies that the employee and all individuals in the employee's tax family for whom coverage is waived, have alternative Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act through a provider other than a federal marketplace, a state exchange, or an individual policy.

2) During the City's annual open enrollment period, the employee must complete an annual written attestation confirming that the employee and the other members of the employee's tax family are enrolled in alternative Minimum Essential Coverage. The employee agrees to notify the City no later than 30 days if the employee or other member(s) of the employee's tax family lose coverage under the alternative Minimum Essential Coverage Plan.

3) The employee understands that the City is legally required to immediately stop conditional opt-out payments if the City learns that the employee and/or members of the employee's family do not have the alternative Minimal Essential Coverage.

The City reserves the right to modify at any time, the amount an employee is eligible to receive under this paragraph, if required by IRS Cafeteria Plan regulations, other legislation or Federal and/or California agency guidance.

Miscellaneous Allowance for Employees hired on or before January 1, 2009:
The City shall pay to employees hired on or before January 1, 2009 a miscellaneous allowance in an amount equivalent to the difference between the employee's benefit election for coverage under PEMHCA and their flex dollar allowance, if their benefit election under PEMHCA exceeds their flex dollar allowance. The miscellaneous allowance shall be treated as income. An employee may use the miscellaneous allowance to pay for health coverage on a pre-tax basis as defined under the City's Cafeteria plan.

2. Health Insurance for Retirees

MID-MANAGERS HIRED PRIOR TO APRIL 1, 2007

a. **For Mid-Managers who retired before December 1, 2001,** the City's contribution to retiree medical premiums shall be the PEMHCA minimum contribution as designated by PEMHCA on an annual basis.

   Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage for the retiree, the retiree's spouse/registered domestic partner and/or qualified dependent children (as defined by PEMHCA) up to $442 per month. The City's longevity contribution shall remain in effect during the lifetime of the Mid-Manager and Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

b. **Mid-Managers who retired on or after December 1, 2001** from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael Mid-Management position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to receive upon retirement the PEMHCA minimum contribution as designated by PEMHCA on an annual basis.

   Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage for the retiree, the retiree's spouse/registered domestic partner and/or qualified dependent children (as defined by PEMHCA) capped at the contribution the City makes towards the health coverage of active Mid-Manager employees. The City's longevity contribution shall remain

in effect during the lifetime of the Mid-Manager and Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

As described in this subsection, the City shall reimburse retired Mid-Managers and their spouses or registered domestic partners the Medicare Part B standard premium amount as determined by the Centers of Medicare and Medicaid Services (CMS) on an annual basis. To initiate reimbursement, retirees must submit proof of payment of the Medicare Part B premiums to the Human Resources Department. If the Medicare Part B is deducted from social security, the retiree/spouse/domestic partner may submit a copy of the social security check, the Medicare Part B bill, or other relevant documentation. Reimbursements will be processed on a quarterly basis. This reimbursement shall remain in effect for the retired Mid-Manager's life and that of the retired Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

MID-MANAGERS HIRED ON OR AFTER APRIL 1, 2007

Mid-Managers who are hired on or after April 1, 2007, and who retire from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.b.) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage, up to $600, for the retiree. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner or dependents. The City's longevity contribution shall cease upon the retired Mid-Manager's death.

The City shall not be responsible for reimbursing retired Mid-Managers and/or their spouses for any Medicare premiums paid by the retired Mid-Manager and/or the retired Mid-Manager's spouse or surviving spouse.

MID-MANAGER HIRED ON OR AFTER JANUARY 1, 2009

Mid-Managers who are hired on or after January 1, 2009, and who retire from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERS laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.c) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

The City shall not be responsible for reimbursing retired Mid-Managers and/or their spouses for any Medicare premiums paid by the retired Mid-Manager and/or the retired Mid-Manager's spouse or surviving spouse.

The City shall additionally make available a retiree health care trust to enable these employees to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by the mandatory annual conversion of 50 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of 75 hours of sick leave after the conversion.

B. LIFE INSURANCE

The City shall provide a basic group life insurance plan in the amount of $150,000 at no cost to the employee.

C. LONG-TERM DISABILITY INSURANCE
The City shall provide long term disability (LTD) insurance, at no cost to the employee, with a benefit of two-thirds (2/3) of the employee's monthly salary, up to a maximum benefit of $7500 (reduced by any deductible benefits).

D. DENTAL INSURANCE
The City shall make available to employees, an additional flex dollar allowance equal to $113 per month to purchase dental coverage under the City's dental plan. The City shall pay dental premiums on behalf of the employee and eligible dependents.

E. VISION PLAN
The City will contract for and pay for a vision plan for "employee plus dependent" vision benefits.

F. EMPLOYEE ASSISTANCE PLAN
The City provides an Employee Assistance Program (EAP) with confidential personal counseling on work and family related issues such as eldercare, substance abuse, etc. Supervisors may also utilize the EAP to refer employees to counselors for work related assistance.

4. RETIREMENT
A. *EMPLOYER PAID MEMBER CONTRIBUTION (EPMC)*
Each Mid-Manager is responsible for paying the full cost of their employee contribution rate as established by the Marin County Employee Retirement Association.

Effective September 1, 2013, in accordance with MCERA and City administrative requirements, all Mid-Management employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by the Marin County Employees Retirement Association, in addition to the current employee contribution towards pension as determined by MCERA.

The only employees excluded from this payment are long-term City employees with thirty or more years of City service who no longer have to pay any employee contribution to the Marin County Retirement System.

B. *COLA*
Mid-Managers participating in the Marin County Employee Retirement Association will pay their full share of members' cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Miscellaneous and safety member contribution rates include both the basic and COLA portions (currently 50% of the COLA is charged to members as defined in the 1937 Act).

C. RETIREMENT PLAN
The City shall provide the Marin County Employee Retirement Association 2.7% @55 retirement program to all miscellaneous Mid-Manager subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws. This is based on an employee's single highest year of compensation.

Employees hired on or after July 1, 2011 will receive an MCERA retirement benefit at the formula 2% at 55, calculated based on the average of their highest three years of compensation, in accordance with MCERA regulations. The annual pension adjustment shall be a maximum of 2% COLA. Minimum retirement age is 55.

Employees hired by the City on or after January 1, 2013 who are defined as "new members" of MCERA in accordance with the Public Employees' Pension Reform Act (PEPRA) of 2013, shall be enrolled in the MCERA 2% @ 62 plan for Miscellaneous members. The employee is responsible for paying the employee contribution of half of the total normal cost of the plan, as defined by MCERA,

through a payroll deduction. Final compensation will be based upon the highest annual average compensation earnable during the thirty-six (36) consecutive months of employment immediately preceding the effective date of his or her retirement or some other period designated by the retiring employee.

D. *SERVICE CREDIT FOR SICK LEAVE*

Mid-Managers who are eligible to accrue sick leave and who retire from the City of San Rafael, on or after 07/01/95 and within 120 days of leaving City employment (excludes deferred retirements), shall receive employment service credit (incorporated from Resolution #9414, dated July 17, 1995), for retirement purposes only, for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive and they elect to receive in compensation for at the time of retirement, pursuant to Section 5 A. of this Resolution). This provision will no longer be available to Mid-Managers hired after June 30, 2009.

E. *MANAGEMENT ALLOWANCE*

As of September 16, 2015, the Management Allowance of 4.54% was rolled into base pay for all Unrepresented Mid-Management employees.

5. LEAVES OF ABSENCE

A. *SICK LEAVE*

Mid-Managers shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment. Accrued sick leave may be used during their probationary period.

Mid-Managers who leave City service in good standing shall receive compensation (cash in) of all accumulated, unused sick leave based upon the rate of three percent (3%) for each year of service up to a maximum of fifty percent (50%) of their sick leave balance. In the event of the death of an employee, payment for unused sick leave (based upon the previously stated formula) shall be paid to the employee's designated beneficiary.

Mid-Managers may accrue unlimited sick leave for usage purposes. However, a maximum of one thousand, two hundred hours (1,200) accrual applies for cash-in purposes at the time of City separation.

Mid-Managers may use sick leave prior to completion of probation. In recognition of Mid-Managers' exempt status under FLSA, time off for sick leave purposes shall not be deducted from a Mid-Manager's sick leave accrual, unless the employee is absent for the full work day.

Use of sick leave for work-related injuries or illnesses shall not be required when it is determined by the treating physician that this status is permanent and stationary.

B. *VACATION LEAVE*

1. **Vacation Accrual** - Vacation is accrued when an employee is on pay status and is credited on a semi-monthly basis. Eligible employees accrue vacation at the following rate for continuous service performed in pay status:

Years of service	Leave Accrual rate/yearly
1-5 years	15 days
6 years	16 days
7 years	17 days
8 years	18 days
9 years	19 days
10 years	20 days
11 years	21 days

12 years	22 days
13 years	23 days
14 years	24 days
15 plus years	25 days

In recognition of Mid-Managers' exempt status under FLSA, time off for vacation leave purposes shall not be deducted from a Mid-Manager's vacation accrual unless the employee is absent for the full work day.

2. Administration of Vacation Leave

The City Manager may advance vacation leave to a Mid-Manager; prior approval is required. Mid-Managers may accrue a maximum of 250 hours of vacation. Vacation leave accrual shall resume once the employee's accumulated vacation leave balance falls below the accrual limit of 250 hours. Mid-Managers who terminate their employment shall be paid in a lump sum for all accrued vacation leave earned prior to the date of termination. Mid-Managers may not utilize accrued vacation, administrative leave time, or personal leave time to extend their retirement date and service credit at the end of their city service. The vacation accrual may be increased to a maximum of 300 hours at the discretion of the City Manager.

3. Annual Option for Payment of Accrued Vacation Leave

A Mid-Manager who has taken at least ten (10) days of vacation in the preceding twelve (12) months, may request that his/her accrued vacation, not to exceed fifty-two and 1/2 (52.5) hours, be paid to him/her in cash. The request may be granted at the discretion of the City Manager. Mid-Managers may not cash-in more than fifty-two and 1/2 (52.5) hours within any twelve (12) month period.

C. *ADMINISTRATIVE LEAVE*

Mid-Managers shall receive ten (10) Administrative Leave days (75 hours) each calendar year subject to the approval of the Department Director and the City Manager. An additional three (3) days may be granted at the discretion and with approval of the department director and the City Manager. Unused Administrative Leave shall not carry over from one calendar year to the next, nor shall unused Administrative Leave balances be paid to a Mid-Manager upon his/her resignation.

In recognition of exempt status under FLSA time off for Administrative leave purposes shall not be deducted from a Mid-Manager's administrative leave accrual, unless the employee is absent for the full work day.

D. *HOLIDAYS*

City shall provide eleven designated holidays and two floating holidays per calendar year to Mid-Managers. The hours for the floating holidays are automatically added to an employees' vacation accrual on a semi-annual basis.

E. *BEREAVEMENT LEAVE*

In the event of the death of a Mid-Manager's spouse, child, parent, brother, sister, in-law(s), relative who lives or has lived in the home of the employee, and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, the City shall provide bereavement leave up to a maximum of three (3) days within the state and five (5) days out-of-state.

F. *CATASTROPHIC LEAVE*

All Mid-Managers shall abide by the City's Catastrophic Leave Policy.

6. EMPLOYMENT TERMS

A. *HOURS OF WORK*

The WORK WEEK will reflect thirty-seven and one-half (37.5) hours for all job classes. Unless otherwise designated, the normal business hours for vacation, sick and administrative leave deduction and sick and administrative leave accrual purposes for Mid-Managers shall be 7.5 hours per day.

B. *DRUG FREE WORK PLACE*

All Mid-Managers shall abide by the City's Drug and Alcohol Policy.

C. *FURLOUGH PLAN*

Mid-Managers endorse the Furlough Program described in Exhibit C attached to this Resolution.

D. *PAY FOR PERFORMANCE EVALUATION SYSTEM*

Mid-Managers shall be evaluated annually based upon the evaluation program adopted by the City Council in October of 1996 and incorporated by reference herein.

E. *OUTSIDE EMPLOYMENT*

All Mid-Managers shall abide by the City's Outside Employment Policy.

F. *CITY VEHICLE*

Under limited circumstances, a city vehicle may be provided to a Mid-Manager if it is determined to be needed to complete his/her job duties and upon approval of the City Manager.

G. *UNIFORM ALLOWANCE*

If required to wear a uniform which is not provided by the City, employee shall receive an annual uniform allowance of $445 per year, paid in two installments, in June and December.

H. *GYM REIMBURSEMENT*

Employees are eligible to receive up to $16.50 per month reimbursement for paid gym memberships. Such reimbursement shall be reported as taxable income to the employee.

I. *Professional Development*

The City Manager commits to working with each department's management team to establish dedicated professional development time throughout the year

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City held on the 19th day of July 2021 by the following vote, to wit:

AYES: COUNCILMEMBERS: Bushey, Hill, Kertz & Mayor Kate

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Llorens Gulati

LINDSAY LARA, CITY CLERK

SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: SM 3.b

Meeting Date: June 21, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Human Resources

Prepared by: Angela Robinson Piñon, Assistant City Manager

City Manager Approval: _____

Marissa Sanchez, Human Resources Director

TOPIC: COMPENSATION FOR UNRESPRESENTED MID-MANAGEMENT EMPLOYEES

SUBJECT: RESOLUTION ESTABLISHING THE COMPENSATION AND WORKING CONDITIONS FOR UNREPRESENTED MID-MANAGEMENT EMPLOYEES (JULY 1, 2024, THROUGH JUNE 30, 2027)

RECOMMENDATION: Staff recommends that the City Council adopt the resolution establishing the compensation and working conditions for unrepresented mid-management employees (July 1, 2024, through June 30, 2027).

BACKGROUND:
The unrepresented Mid-Management employee group ("Mid-Managers") includes five (5) positions assigned to various City departments. These Mid-Managers support ongoing services and operations around the City. The Unrepresented Mid-Management Salary Resolution expires on June 30, 2024. In keeping with the equity adjustment approach for represented employees, salary increases for each position depend on the extent to which each position is behind the labor market average. The recommended base wage increase of three percent (3.0%) and the proposed adjustments to the City's contributions to the flex cafeteria plan for the Unrepresented Mid-Management Employee Management group is consistent with proposals and agreements for represented employees over the same three-year period.

ANALYSIS:
The following reflects highlights of the salary resolution and is consistent with the economic guidelines authorized by the City Council. The attached resolution includes all the recommended changes.

1. **Term of the Resolution**: July 1, 2024, through June 30, 2027

2. **Salary Increase**: Individual classification salary increase percentages may be lower or higher than the percentages listed below, based on the amount of labor market adjustment recommended for each position in the unit. The salary schedule included in the attached resolution authorizes the proposed new salary for each position.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

a. Year 1: A 3.0% cost of living increase and a 3.0% or 4.0% equity adjustment (dependent upon position) for a total increase of 6.0% to 7.0%

b. Year 2: A 3.0% cost of living increase and a 2.5% to 4.0% equity adjustment (dependent upon position) for a total increase of 5.5% to 7.0%

c. Year 3: A 3.0% cost of living increase and a 2.0% to 4.0% equity adjustment (dependent upon position) for a total increase of 5.0% to 7.0%

3. **Full Flex Cafeteria Plan:** To address rising healthcare costs and improve the City's ability to recruit and retain employees and to improve the market position among comparator agencies, employees will receive an increase in their monthly Flex Dollar Allowance as noted below:

Health Tier	Current	Increase	Effective Dec 2024
Employee Only	$ 735.86	$ 214.14	$ 950.00
Employee +1 dependent	$ 1,471.71	$ 428.29	$ 1,900.00
Employee + Family	$ 1,913.24	$ 486.76	$ 2,400.00

For the term of this resolution, on December 15, 2025, and December 15, 2026, the flex dollar amount shall increase up to a maximum of 5%, based on the Kaiser Bay Area premium rate increase. If the Kaiser Bay Area premium rate increase is between 10%-15%, the City and employee will split the cost of the increase above ten percent (10%) evenly. Upon expiration of the resolution, the flex dollar amount increase shall revert back to a maximum of 3%, based on the Kaiser Bay Area premium rate increase.

4. **Life Insurance:** Increases life insurance coverage benefits from $150,000 to $300,000.

5. **Deferred Compensation:** The City will contribute one and six hundredths' percent (1.06%) of pensionable compensation toward a City-provided deferred compensation plan.

6. **Uniform Pay:** Increases the uniform pay for those employees required to wear a uniform from $445 to $545 per year.

7. **Out of Class Compensation:** Establishes "out of class" compensation for employees working in a higher job classification for ten (10) or more days. Employees would receive a five percent (5%) increase in wages for taking on the other duties. If the assignment goes beyond four (4) weeks, the employee shall be compensated at a step within the salary range for the classification that is "greater than 5% of the employee's base pay."

8. **Bilingual Pay:** Employees who demonstrate proficiency in speaking and writing a language and provide translation and interpretation services to the City may receive up to an additional $250 monthly.

9. **Severance Pay:** The severance amount is tied to years of service up to a maximum of six (6) months' severance pay. Severance pay is contingent upon an employee's release of claims against the City and only applies for terminations that are "not for cause."

10. **Non-Economic Items**: The attached resolution also includes the following changes:
    - Gender Neutral Language: Replaces references to "he," "she," "his," and "hers" with "they,"

"them," and "their."

- Contributions to Retiree Health Savings Account: Changed the voluntary employee contribution from 50 hours to 80 hours of sick time.
- Holidays: Adds Juneteenth to the list of City holidays and reduces the number of floating holidays from two to one.
- Bereavement Leave: Updates existing bereavement language to comply with changes in state law.
- Paid Parental Leave: Provides 300 hours of paid parent leave for employees following the birth or adoption of a child.
- End of Life Care Leave: Provides up to 80 hours of paid leave for an employee who is providing care for a family member at the end of their life.
- Wellness Benefit: Broadens use of the exiting benefit to include reimbursement for health and wellness expenses such as wellness counseling, physical therapy, and smoking cessation programs.
- At-Will Status: Adds language clarifying the at-will status of unrepresented Mid-Managers.

FISCAL IMPACT:
The current total annual salary and benefit cost to the City for the five (5) unrepresented Mid-Management employees is $1,344,356. The additional ongoing incremental cost of the recommended salary resolution beyond the FY 24/25 budget is:

	Incremental FY 2024-25	**Incremental FY 2025-26**	**Incremental FY 2026-27**
Wages:			
Salary	$30,077	$27,585	$29,240
Other Costs:			
Pension*	$13,842	$12,695	$13,457
Taxes (Medicare, WC)	$1,149	$1,054	$1,117
Benefits	$22,985	$4,596	$4,828
Total Annual Incremental Costs:	**$68,053**	**$45,930**	**$48,642**
Total Over Term of Contract	*$204,158*	*$91,859*	*$48,642*
			$344,660

***This incremental pension cost results only from the negotiated wage increase and does not include the cost of associated MCERA rate changes. The terms and conditions of the pension benefit plan remain unchanged.*

While the incremental cost is $68,053 for fiscal year 2024-2025, $45,930 for fiscal year 2025-2026, and $48,642 for fiscal year 2026-2027, the increases are compounding and therefore the projected cumulative wages and other costs total $344,660 for the three-year term. The increase in compensation included in this resolution is in line with the City's current budget projections. Funding for these positions is provided for in the City's General Fund.

OPTIONS:
The City Council has the following options to consider in this matter:

- Accept staff's recommendation to adopt the resolution.
- Adopt resolution with modifications.
- Direct staff to return with more information.
- Take no action.

RECOMMENDED ACTION:
Staff recommends that the City Council adopt the resolution establishing the compensation and working conditions for Unrepresented Mid-Management Employees (July 1, 2024, through June 30, 2027).

ATTACHMENTS:
1. Resolution Establishing the Compensation and Working Conditions for Unrepresented Mid-Management Employees (July 1, 2024, through June 30, 2027), with attachments
2. Resolution with tracked changes

RESOLUTION NO.

AMENDED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL ESTABLISHING THE COMPENSATION AND WORKING CONDITIONS FOR UNREPRESENTED MID-MANAGEMENT EMPLOYEES (July 1, 2024 through June 30, 2027)

1. MID-MANAGEMENT EMPLOYEES

The Mid-Management Employees of the City of San Rafael are the Mid-Management Job Class Titles ("Mid-Managers") enumerated in Exhibit A, attached hereto and incorporated herein. This Resolution shall constitute the compensation and conditions of employment for Unrepresented Mid-Managers for the period from July 1, 2024 through June 30, 2027.

2. SALARY AND COMPENSATION GOALS

A. GOALS AND COMPENSATION DEFINITIONS

It is the goal of the City Council to try to achieve a total compensation package for all Mid-Managers that is competitive compared to similar cities in our labor market. The survey cities are Fairfield, Hayward, San Leandro, South San Francisco, Alameda, Napa, Novato and Santa Rosa. The Council's goal is to attract and retain the most qualified Mid-Managers in accordance with the City's ability to pay.

Total Compensation for survey purposes shall be defined as: Top step salary (excluding longevity pay steps), educational incentive pay, holiday pay, uniform allowance, employer paid deferred compensation (except for such portion that may be part of employee cafeteria plan), employer's contribution towards employees' share of retirement, employer's retirement contribution, employer paid contributions toward insurance premiums for health, life, long term disability, dental and vision plans, management allowance, and employer paid cafeteria/flexible spending accounts.

B. COMPENSATION SURVEYS

In order to measure progress towards the above-stated goal, the City shall survey Mid-Management positions in the final year of the Resolution in advance of discussions regarding a successor Resolution.

Identified positions from other agencies include positions that are filled as well as those that may be unfilled, so long as the position is identified by the survey agency as being on the salary schedule and having a job class description. Other city/agency positions are established as benchmark positions in San Rafael's compensation survey based upon similar work and similar job requirements.

The City shall review the survey data for accuracy and completeness. The City shall provide the survey data to all Mid-Managers. During the term of this Resolution, Mid-Managers agree to work with the City to identify and implement a new benchmark strategy such as an alignment of Mid-Manager salaries with the respective department director.

C. SALARY INCREASES

Individual classification salary increase percentages depend on the labor market adjustment applied to each position. The salary schedule included with this salary resolution authorizes the proposed new salary for each position.

3. INSURANCE

Health & Dental Insurance benefits are prorated for part-time employees in accordance with the percentage of full-time work schedule. Domestic partners who are registered with the Secretary of State and same-sex spouses are considered dependents under these benefits. Pertinent taxes will be

applied to coverage provided to registered domestic partners and same sex spouses as required by federal and state laws.

A. HEALTH INSURANCE

1. **Health Insurance for Active Employees**. Effective January 1, 2009, the City implemented a full flex cafeteria plan for active employees, in accordance with IRS Code Section 125. Active employees participating in the City's full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the full flex cafeteria plan.

   The monthly flex dollar allowance effective the paycheck of July 1, 2024 shall be:

For employee only:	$ 735.86
For employee and one dependent:	$1,471.71
For employee and two or more dependents:	$1,913.24

   The monthly flex dollar allowance effective the paycheck of December 15, 2024, shall be:

For employee only:	$ 950.00
For employee and one dependent:	$ 1,900.00
For employee and two or more dependents:	$ 2,400.00

   Effective December 15, 2025, and December 15, 2026, the flex dollar allowances shall increase on the December 15th paycheck up to a maximum of five percent (5.0%) on an annual basis. If the Kaiser Bay Area premium rate increase is less than five percent (5.0%), the flex dollar allowance shall only increase the amount of the Kaiser Bay Area premium increase. In the event that the Kaiser Bay Area premium rate increase for the upcoming calendar year exceeds ten percent (10%) and is less than fifteen percent (15%), the City and the employee will split the cost of the increase above ten percent (10%) evenly; each paying 50% of the dollar value of the increase between 10-15%.

   Upon the expiration of this resolution, the flex dollar allowances shall increase on the December 15th paycheck of each subsequent year up to a maximum of three percent (3%) on an annual basis, based on but not to exceed the Kaiser Bay Area premium rate increase for the upcoming calendar year.

   The City shall contribute to the cost of medical coverage for each eligible employee and his/her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The balance of the monthly flex dollar allowance (after the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health benefits.

   Conditional Opt-Out Payment: An employee may elect to waive the City's health insurance coverage and receive the value of the Employee Only contribution as a monthly Opt-Out payment in accordance with the terms of the cafeteria plan, and the Affordable Care Act, if the employee complies with the following conditions:

   1) The employee certifies that the employee and all individuals in the employee's tax family for whom coverage is waived, have alternative Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act through a provider other than a federal marketplace, a state exchange, or an individual policy.

   2) During the City's annual open enrollment period, the employee must complete an annual written attestation confirming that the employee and the other members of the employee's tax family are enrolled in alternative Minimum Essential Coverage. The employee agrees to notify the City no later than 30 days if the employee or other member(s) of the

employee's tax family lose coverage under the alternative Minimum Essential Coverage Plan.

3) The employee understands that the City is legally required to immediately stop conditional opt-out payments if the City learns that the employee and/or members of the employee's family do not have the alternative Minimal Essential Coverage.

The City reserves the right to modify at any time, the amount an employee is eligible to receive under this paragraph, if required by IRS Cafeteria Plan regulations, other legislation or Federal and/or California agency guidance.

Miscellaneous Allowance for Employees hired on or before January 1, 2009:
The City shall pay to employees hired on or before January 1, 2009, a miscellaneous allowance in an amount equivalent to the difference between the employee's benefit election for coverage under PEMHCA and their flex dollar allowance, if their benefit election under PEMHCA exceeds their flex dollar allowance. The miscellaneous allowance shall be treated as income. An employee may use the miscellaneous allowance to pay for health coverage on a pre-tax basis as defined under the City's Cafeteria plan.

2. Health Insurance for Retirees

MID-MANAGERS HIRED PRIOR TO APRIL 1, 2007

a. **For Mid-Managers who retired before December 1, 2001,** the City's contribution to retiree medical premiums shall be the PEMHCA minimum contribution as designated by PEMHCA on an annual basis.

   Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage for the retiree, the retiree's spouse/registered domestic partner and/or qualified dependent children (as defined by PEMHCA) up to $442 per month. The City's longevity contribution shall remain in effect during the lifetime of the Mid-Manager and Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

b. **Mid-Managers who retired on or after December 1, 2001** from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael Mid-Management position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to receive upon retirement the PEMHCA minimum contribution as designated by PEMHCA on an annual basis.

   Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage for the retiree, the retiree's spouse/registered domestic partner and/or qualified dependent children (as defined by PEMHCA) capped at the contribution the City makes towards the health coverage of active Mid-Manager employees. The City's longevity contribution shall remain in effect during the lifetime of the Mid-Manager and Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

   As described in this subsection, the City shall reimburse retired Mid-Managers and their spouses or registered domestic partners the Medicare Part B standard premium amount as determined by the Centers of Medicare and Medicaid Services (CMS) on an annual basis. To initiate reimbursement, retirees must submit proof of payment of the Medicare Part B premiums to the Human Resources Department. If the Medicare Part B is deducted from social security, the retiree/spouse/domestic partner may submit a copy of the social security check, the Medicare Part B bill, or other relevant documentation. Reimbursements will be processed on a quarterly basis. This reimbursement shall remain in effect for the retired

Mid-Manager's life and that of the retired Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

MID-MANAGERS HIRED ON OR AFTER APRIL 1, 2007

Mid-Managers who are hired on or after April 1, 2007, and who retire from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.b.) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage, up to $600, for the retiree. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner or dependents. The City's longevity contribution shall cease upon the retired Mid-Manager's death.

The City shall not be responsible for reimbursing retired Mid-Managers and/or their spouses for any Medicare premiums paid by the retired Mid-Manager and/or the retired Mid-Manager's spouse or surviving spouse.

MID-MANAGER HIRED ON OR AFTER JANUARY 1, 2009

Mid-Managers who are hired on or after January 1, 2009, and who retire from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERS laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.c) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

The City shall not be responsible for reimbursing retired Mid-Managers and/or their spouses for any Medicare premiums paid by the retired Mid-Manager and/or the retired Mid-Manager's spouse or surviving spouse.

The City shall additionally make available a retiree health care trust to enable these employees to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by the mandatory annual conversion of 80 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of 75 hours of sick leave after the conversion.

B. LIFE INSURANCE

The City shall provide a basic group life insurance plan in the amount of $300,000 at no cost to the employee.

C. LONG-TERM DISABILITY INSURANCE

The City shall provide long term disability (LTD) insurance, at no cost to the employee, with a benefit of two-thirds (2/3) of the employee's monthly salary, up to a maximum benefit of $7,500 (reduced by any deductible benefits).

D. DENTAL INSURANCE

The City shall make available to employees, an additional flex dollar allowance equal to $113 per month to purchase dental coverage under the City's dental plan. The City shall pay dental premiums on behalf of the employee and eligible dependents.

E. VISION PLAN
The City will contract for and pay for a vision plan for "employee plus dependent" vision benefits.

F. EMPLOYEE ASSISTANCE PLAN
The City provides an Employee Assistance Program (EAP) with confidential personal counseling on work and family related issues such as eldercare, substance abuse, etc. Supervisors may also utilize the EAP to refer employees to counselors for work related assistance.

G. STATE DISABILITY INSURANCE
Employees will have the full premium cost for State Disability Insurance (SDI) coverage automatically deducted from their paycheck and no City contribution will be made toward participation in the plan. It is incumbent upon the employee to keep the City advised of their medical status, within Health Insurance Portability and Accountability Act (HIPAA) guidelines, regarding their eligibility for SDI.

4. RETIREMENT

A. *EMPLOYER PAID MEMBER CONTRIBUTION (EPMC)*
Each Mid-Manager is responsible for paying the full cost of their employee contribution rate as established by the Marin County Employee Retirement Association.

Effective September 1, 2013, in accordance with MCERA and City administrative requirements, all Mid-Management employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by the Marin County Employees Retirement Association, in addition to the current employee contribution towards pension as determined by MCERA.

The only employees excluded from this payment are long-term City employees with thirty or more years of City service who no longer have to pay any employee contribution to the Marin County Retirement System.

B. *COLA*
Mid-Managers participating in the Marin County Employee Retirement Association will pay their full share of members' cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Miscellaneous and safety member contribution rates include both the basic and COLA portions (currently 50% of the COLA is charged to members as defined in the 1937 Act).

C. RETIREMENT PLAN
The City shall provide the Marin County Employee Retirement Association 2.7% @55 retirement program to all miscellaneous Mid-Manager subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws. This is based on an employee's single highest year of compensation.

Employees hired on or after July 1, 2011 will receive an MCERA retirement benefit at the formula 2% at 55, calculated based on the average of their highest three years of compensation, in accordance with MCERA regulations. The annual pension adjustment shall be a maximum of 2% COLA. Minimum retirement age is 55.

Employees hired by the City on or after January 1, 2013 who are defined as "new members" of MCERA in accordance with the Public Employees' Pension Reform Act (PEPRA) of 2013, shall be enrolled in the MCERA 2% @ 62 plan for Miscellaneous members. The employee is responsible for paying the employee contribution of half of the total normal cost of the plan, as defined by MCERA, through a payroll deduction. Final compensation will be based upon the highest annual average compensation earnable during the thirty-six (36) consecutive months of employment immediately

preceding the effective date of their retirement or some other period designated by the retiring employee.

D. *SERVICE CREDIT FOR SICK LEAVE*

Mid-Managers who are eligible to accrue sick leave and who retire from the City of San Rafael, on or after 07/01/95 and within 120 days of leaving City employment (excludes deferred retirements), shall receive employment service credit (incorporated from Resolution #9414, dated July 17, 1995), for retirement purposes only, for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive and they elect to receive in compensation for at the time of retirement, pursuant to Section 5 A. of this Resolution). This provision will no longer be available to Mid-Managers hired after June 30, 2009.

E. *MANAGEMENT ALLOWANCE*

As of September 16, 2015, the Management Allowance of 4.54% was rolled into base pay for all Unrepresented Mid-Management employees.

F. *DEFERRED COMPENSATION*

The City will contribute one and six hundredths percent (1.06%) of pensionable compensation toward a City-provided deferred compensation plan.

5. LEAVES OF ABSENCE

A. *SICK LEAVE*

Mid-Managers shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment. Accrued sick leave may be used during their probationary period.

Mid-Managers who leave City service in good standing shall receive compensation (cash in) of all accumulated, unused sick leave based upon the rate of three percent (3%) for each year of service up to a maximum of fifty percent (50%) of their sick leave balance. In the event of the death of an employee, payment for unused sick leave (based upon the previously stated formula) shall be paid to the employee's designated beneficiary.

Mid-Managers may accrue unlimited sick leave for usage purposes. However, a maximum of one thousand, two hundred hours (1,200) accrual applies for cash-in purposes at the time of City separation.

Mid-Managers may use sick leave prior to completion of probation. In recognition of Mid-Managers' exempt status under FLSA, time off for sick leave purposes shall not be deducted from a Mid-Manager's sick leave accrual, unless the employee is absent for the full work day.

Use of sick leave for work-related injuries or illnesses shall not be required when it is determined by the treating physician that this status is permanent and stationary.

B. *VACATION LEAVE*

1. **Vacation Accrual** - Vacation is accrued when an employee is on pay status and is credited on a semi-monthly basis. Eligible employees accrue vacation at the following rate for continuous service performed in pay status:

Years of service	Leave Accrual rate/yearly
1-5 years	15 days
6 years	16 days
7 years	17 days
8 years	18 days

9 years	19 days
10 years	20 days
11 years	21 days
12 years	22 days
13 years	23 days
14 years	24 days
15 plus years	25 days

In recognition of Mid-Managers' exempt status under FLSA, time off for vacation leave purposes shall not be deducted from a Mid-Manager's vacation accrual unless the employee is absent for the full work day.

2. Administration of Vacation Leave

The City Manager may advance vacation leave to a Mid-Manager; prior approval is required. Mid-Managers may accrue a maximum of 250 hours of vacation. Vacation leave accrual shall resume once the employee's accumulated vacation leave balance falls below the accrual limit of 250 hours. Mid-Managers who terminate their employment shall be paid in a lump sum for all accrued vacation leave earned prior to the date of termination. Mid-Managers may not utilize accrued vacation, administrative leave time, or personal leave time to extend their retirement date and service credit at the end of their city service. The vacation accrual may be increased to a maximum of 300 hours at the discretion of the City Manager.

3. Annual Option for Payment of Accrued Vacation Leave

A Mid-Manager who has taken at least ten (10) days of vacation in the preceding twelve (12) months, may request that their accrued vacation, not to exceed fifty-two and 1/2 (52.5) hours, be paid to them in cash. The request may be granted at the discretion of the City Manager. Mid-Managers may not cash-in more than fifty-two and 1/2 (52.5) hours within any twelve (12) month period.

C. *ADMINISTRATIVE LEAVE*

Mid-Managers shall receive ten (10) Administrative Leave days (75 hours) each calendar year subject to the approval of the Department Director and the City Manager. An additional three (3) days may be granted at the discretion and with approval of the department director and the City Manager. Unused Administrative Leave shall not carry over from one calendar year to the next, nor shall unused Administrative Leave balances be paid to a Mid-Manager upon their resignation.

In recognition of exempt status under FLSA time off for Administrative leave purposes shall not be deducted from a Mid-Manager's administrative leave accrual, unless the employee is absent for the full work day.

D. *HOLIDAYS*

City shall provide twelve designated holidays and one (1) floating holiday per calendar year to Mid-Managers. The hours for the floating holidays are automatically added to an employees' vacation accrual on a semi-annual basis.

In order to be eligible for compensation for the paid holiday, the employee must both be in paid status on the day before the holiday and on the day after the holiday.

All employees who are required to work on a day designated as an authorized holiday, other than a day on which an election is held throughout the state, shall be paid at the applicable rate of pay for the number of hours actually worked.

City paid holidays, and the days on which holidays are observed, are outlined in the annual holiday schedule.

E. *BEREAVEMENT LEAVE*

In the event of the death of a Mid-Manager's spouse, registered domestic partner, child, parent, sibling, parent in-law(s), grandchild, grandparent, relative who lives or has lived in the home of the employee, to such an extent that the relative was considered a member of the immediate family and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, up to a maximum of five (5) days may be granted for paid bereavement leave. All bereavement leave must be exhausted within 3 months of the date of the death of the family member and may be taken intermittently.

In those cases where the death involves an individual who had such a relationship with the employee, as defined above, the employee shall sign a simple affidavit describing the relationship and submit this to the City Manager as part of the request for bereavement leave. Directors may make a request to the City Manager, to use bereavement leave for a relative other than those listed above.

The above bereavement clause shall also apply in the event of a reproductive loss for an employee. The City agrees to maintain employee confidentiality related to the reproductive loss leave.

F. *CATASTROPHIC LEAVE*

All Mid-Managers shall abide by the City's Catastrophic Leave Policy.

G. *PAID PARENTAL LEAVE*

Effective July 1, 2024, any employee who has been continuously employed by the City for at least 12 months prior to the start of the leave shall be eligible for Paid Parental Leave (PPL) to use within 12 months of the following eligible events:

1. Birth of a child of the employee, the employee's spouse, or the employee's registered domestic partner.

2. Placement of a child with the employee for adoption.

For the purposes of PPL, the definition of "parent" and "child" are as defined by the California Family Rights Act.

Benefit and Use:

1. Eligible employees shall be granted 300 PPL hours to use within 12 months of the qualifying event for the purposes of disability due to pregnancy and/or baby bonding. Regular part-time employees shall be eligible for a prorated number of PPL hours, based on scheduled and budgeted FTE.
2. PPL is based on a 12-month rolling calendar. No more than 300 PPL hours may be used in any 12- month period. PPL may not be used or extended beyond the 12-month time frame and any accrued and unused PPL will be forfeited at the end of the 12-month period for the qualifying event.
3. Upon termination of the employee's employment at the City, they will not be paid for any accrued and unused PPL for which they were eligible.
4. PPL is based on the employee's regularly scheduled hourly base wage. It is considered "paid status" for the purpose of merit, seniority, benefit premium contributions, retirement service credit, vacation and sick leave accrual, and City benefit eligibility and contributions.
5. PPL shall be used in a block of continuous time or on an intermittent or reduced schedule. Intermittent leaves or reduced schedules must be arranged and approved by the employee's supervisor in advance.
6. PPL shall run concurrently with FMLA/CFRA and with PDL as set forth in paragraph 7, below. Eligible employees will be reinstated to the same or equivalent position in accordance with FMLA/CFRA protections. This may include altered assignments to accommodate the department's operational needs when the employee is working a reduced work schedule.

7. Pregnancy Disability Leave (PDL): An eligible employee on PDL must reduce their sick leave balance to 40 hours or less to use PPL concurrently with PDL. An eligible employee is not required to further reduce their balance once they have reached the initial threshold of 40 hours or less.

Coordination of Benefits & Leaves:

• PPL taken under this policy will run concurrently with leave under the FMLA, CFRA, and PDL once the eligible employee's sick leave balance is reduced to 40 hours or less.

• PPL will be fully integrated with any short-term disability or California Paid Family Leave program but shall not exceed one hundred percent (100%) of the employee's normal gross salary rate.

• The use of Short-Term Disability (STD) and Paid Family Leave (PFL) will not reduce available hours under the PPL leave entitlement.

• For time covered by FMLA/CFRA job protected leave for baby bonding purposes, PPL must be used prior to other accrued leave or unpaid leave except as discussed in number 7 above.

• If an employee has exhausted FMLA/CFRA entitlements for reasons other than baby bonding, PPL must be used prior to other accrued leaves or Leave Without Pay for arranged leaves for the purpose of baby bonding. Scheduling of non-FMLA/CFRA protected PPL is subject to department approval.

• An employee who is eligible for PPL but is on leave for other reasons cannot use PPL except as described in paragraph 7 above.

F. *END OF LIFE CARE LEAVE*

Eligibility:

Effective July 1, 2024, employees who have been continuously employed by the City for at least 12 months prior to the start of the leave shall be eligible for End of Life Care leave to provide end of life care for an immediate family member, which shall include an employee's spouse, registered domestic partner, child, parent, sibling, parent, parent in-law(s), grandparent, or grandchild.

End of Life care may be used to provide support, assistance and care to an immediate family member, as defined above, who is receiving end of life services through hospice or a medical facility.

Benefit and Use:

1. Eligible employees shall receive 80 hours of End of Life Care leave to be used during their employment with the City for use to support an immediate family member near the end of life, as described above.
2. Upon termination of the employee's employment at the City, they will not be paid for any accrued and unused End of Life Care leave for which they were eligible. Further, if an employee leaves City employment and returns to City service later in their career, the employee shall receive any unused hours from their previous employment with the City but shall not be granted any additional hours of for End of Life Care Leave.
3. End of Life Care leave is based on the employee's regularly scheduled hourly base wage. It is considered "paid status" for the purpose of merit, seniority, benefit premium contributions, retirement service credit, vacation and sick leave accrual, and City benefit eligibility and contributions.

4. End of Life Care leave shall be used in a block of continuous time or on an intermittent or reduced schedule. Intermittent leaves or reduced schedules must be arranged and approved by the employee's supervisor in advance.
5. End of Life Care shall run concurrently with FMLA/CFRA. Eligible employees will be reinstated to the same or equivalent position in accordance with FMLA/CFRA protections. This may include altered assignments to accommodate the department's operational needs when the employee is working a reduced work schedule.
6. An employee who is eligible for End of Life Care Leave but is on leave for other reasons cannot use PPL except as described in paragraph 5 above.

6. EMPLOYMENT TERMS

A. *HOURS OF WORK*
The WORK WEEK will reflect thirty-seven and one-half (37.5) hours for all job classes. Unless otherwise designated, the normal business hours for vacation, sick and administrative leave deduction and sick and administrative leave accrual purposes for Mid-Managers shall be 7.5 hours per day.

B. *DRUG FREE WORK PLACE*
All Mid-Managers shall abide by the City's Drug and Alcohol Policy.

C. *FURLOUGH PLAN*
Mid-Managers endorse the Furlough Program described in Exhibit B attached to this Resolution.

D. *PAY FOR PERFORMANCE EVALUATION SYSTEM*
Mid-Managers shall be evaluated annually based upon the evaluation program adopted by the City Council in October of 1996 and incorporated by reference herein.

E. *OUTSIDE EMPLOYMENT*
All Mid-Managers shall abide by the City's Outside Employment Policy.

F. *CITY VEHICLE*
Under limited circumstances, a city vehicle may be provided to a Mid-Manager if it is determined to be needed to complete his/her job duties and upon approval of the City Manager.

G. *UNIFORM ALLOWANCE*
If required to wear a uniform which is not provided by the City, employee shall receive an annual uniform allowance of $545 per year, paid in two installments, in June and December.

H. *GYM REIMBURSEMENT*
Employees are eligible to receive up to $16.50 per month reimbursement for all eligible health and wellness expenses as follows: preventative medical examinations (minus any amount paid by a private insurance plan), paid health or gym club memberships, licensed weight loss facility memberships, physical therapy sessions, smoking cessation programs, wellness counseling, acupuncture, or meditation programs. Such reimbursement shall be reported as taxable income to the employee.

I. *PROFESSIONAL DEVELOPMENT*
The City Manager commits to working with each department's management team to establish dedicated professional development time throughout the year.

J. *OUT OF CLASS COMPENSATION*
Employees assigned in writing by their Department Director to perform additional duties of a higher paid classification shall be compensated at a rate not less than 5% greater than the employee's

current base salary. Eligibility for out-of-class compensation requires a minimum assignment of ten (10) consecutive days.

The out-of-class pay becomes effective on the first day of the assignment. If the assignment extends beyond four consecutive weeks, then the employee shall be compensated at the lower step of the classification within which the duties fall if that is greater than 5% of the employee's base pay. The Department Director is required to complete a Personnel Action Report (PAR), to initiate out-of-class compensation.

K. *BILINGUAL PAY*

Within the job classifications specified in this resolution an employee may receive bilingual pay for full fluency in a foreign language.

Full fluency is defined as a skill level that will allow the employee to fully assist someone else who does not speak English in coping with situations or problems by translating for, conversing with and/or reading or writing written material.

An employee can petition their Department Director for this bilingual pay incentive. With the Department Director's recommendation and on review by the Human Resources Director and approval of the City Manager the employee may begin to receive this bilingual pay incentive.

Criteria for approval of the bilingual pay incentive by the City Manager includes:

a. Certification by a recognized school of the appropriate skill level; and/or
b. Demonstrated ability of the proficiency level on the job; and
c. Department Director's recommendation and statement that the bilingual skill of the employee can be of value to the department and the employee in the completion of their regular work assignments.

Employees who have been approved for the bilingual pay incentive and are required in the performance of their duties to converse with the public in a language other than English shall receive an additional $200.00 per month above their base salary.

Employees who also translate official written documents to or from a language other than English shall receive an additional $50.00 for a total of $250.00 per month above their base salary.

This bilingual pay incentive shall be reviewed annually and as long as the employee demonstrates (by work experience or re-testing, as determined by the City of San Rafael) the full fluency skill level; and as long as the Department Director indicates the value of this skill to the department and the employee in the completion of their regular work assignments.

Removal of the bilingual pay incentive would be considered a non-disciplinary action however removal of bilingual pay is appealable to the Human Resources Director. The determination of the Human Resources Director is not subject to any appeal/grievance procedure.

L. *AT WILL STATUS*

All positions covered by this resolution are at-will and as such serve at the pleasure of the appointing authority and may be removed at any time without cause and without right of appeal.

M. *SEVERANCE*

Except employees who have committed an abuse of office or position as defined by Government Code Section 53243.4 or committed a violation of the Fair Employment and Housing Act, an Unrepresented Executive Management employee who is involuntarily separated shall receive severance pay in a lump sum equal to the following, provided they sign a settlement and general release provided by the City:

- 1 year of service = two months of salary and two months of COBRA health insurance.
- 2 years of service = three months of salary and three months of COBRA health insurance.
- 3 years of service = four months of salary and four months of COBRA health insurance.
- 4 years of service = five months of salary and five months of COBRA health insurance.
- 5 or more years of service = six months of salary and six months of COBRA health insurance.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City held on the 21st day of June 2024 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

_____

LINDSAY LARA, CITY CLERK

EXHIBIT A

SAN RAFAEL UNREPRESENTED MID-MANAGEMENT

SALARY SCHEDULE

Effective July 1, 2024

Grade	Position	A	B	C	D	E
7315	Accounting Manager	$ 10,785	$ 11,324	$ 11,891	$ 12,485	$ 13,109
1105	Deputy City Attorney I	$ 11,504	$ 12,079	$ 12,683	$ 13,317	$ 13,983
1109	Deputy City Attorney II	$ 12,683	$ 13,318	$ 13,983	$ 14,683	$ 15,417
7127	Deputy Fire Chief	$ 15,689	$ 16,474	$ 17,298	$ 18,162	$ 19,071
2107	Human Resources Operations Manager	$ 10,463	$ 10,986	$ 11,536	$ 12,113	$ 12,718
2143	Principal Human Resources Analyst	$ 10,463	$ 10,986	$ 11,536	$ 12,113	$ 12,718

EXHIBIT A

SAN RAFAEL UNREPRESENTED MID-MANAGEMENT

SALARY SCHEDULE

Effective July 1, 2025

Grade	Position	A	B	C	D	E
7315	Accounting Manager	$ 11,432	$ 12,004	$ 12,604	$ 13,234	$ 13,896
1105	Deputy City Attorney I	$ 12,136	$ 12,743	$ 13,380	$ 14,049	$ 14,752
1109	Deputy City Attorney II	$ 13,381	$ 14,050	$ 14,753	$ 15,490	$ 16,265
7127	Deputy Fire Chief	$ 16,788	$ 17,627	$ 18,508	$ 19,434	$ 20,406
2107	Human Resources Operations Manager	$ 11,091	$ 11,646	$ 12,228	$ 12,839	$ 13,481
2143	Principal Human Resources Analyst	$ 11,091	$ 11,646	$ 12,228	$ 12,839	$ 13,481

EXHIBIT A

SAN RAFAEL UNREPRESENTED MID-MANAGEMENT

SALARY SCHEDULE

Effective July 1, 2026

Grade	Position	A	B	C	D	E
7315	Accounting Manager	$ 12,118	$ 12,724	$ 13,360	$ 14,028	$ 14,730
1105	Deputy City Attorney I	$ 12,743	$ 13,380	$ 14,049	$ 14,752	$ 15,489
1109	Deputy City Attorney II	$ 14,050	$ 14,753	$ 15,490	$ 16,265	$ 17,078
7127	Deputy Fire Chief	$ 17,963	$ 18,861	$ 19,804	$ 20,794	$ 21,834
2107	Human Resources Operations Manager	$ 11,757	$ 12,344	$ 12,962	$ 13,610	$ 14,290
2143	Principal Human Resources Analyst	$ 11,757	$ 12,344	$ 12,962	$ 13,610	$ 14,290

FURLOUGH PROGRAM

Both the City of San Rafael and the Mid-Management Group employees recognize the current economic condition of the State of California and the City of San Rafael. Through this recognition and in a cooperative spirit the City of San Rafael and these employees have worked expeditiously on the development of a Furlough Program. This Agreement does not mean the City will necessarily implement furloughs; but in the event it is necessary to implement due to continued economic problems in the City of San Rafael the procedures for this Furlough Program shall provide for both Voluntary Time Off (herein described as VTO) and Mandatory Time Off (herein described as MTO).

Voluntary Time Off (VTO).
The needs of the City and the respective departments (as determined by the Department Director and City Manager) will need to be considered in the actual granting of VTO. Any VTO time granted and the resulting savings will have a corresponding impact on the time needed through MTO.

1. An employee's VTO time would count in determining how many hours of MTO an employee needed to take during the fiscal year.

2. Employees who take VTO at a time other than when MTO is taken by other employees will have to take vacation leave, compensatory time off or leave without pay if the MTO results in the closure of the department.

Mandatory Time Off (MTO).
MTO will be taken by the employee during the MTO period when feasible in their respective department (as determined by the Department Director and City Manager). The City will attempt to schedule MTO time in blocks of days (between Christmas and New Years) or individual days next to scheduled holidays and/or weekends.

1. Employees may not take paid vacation time in lieu of designated MTO time.

2. MTO time shall be considered time in pay status for the accrual of leave and eligibility for holidays. MTO time will not impact health, dental and life insurance benefits. At this time MTO time will impact Marin County retirement contributions; but if the Marin County Retirement Association changes it policy on this the City will, effective the first of the month following notice from the Marin County Retirement Association, make the necessary change in the program's administration to correspond with the change in the policy. Any employee who notifies the City no later than 07/30/11 of their retirement date and retires from the Marin County Retirement System during FY 11-12 shall be exempted from the MTO requirements. If said employee did not retire during FY 11-12 as stated, said employee would be docked in pay an amount equivalent to the number of MTO hours taken by other represented employees.

3. MTO time shall apply toward time in service for step increases, completion of probation, and related service credit.

4. Other Terms and Conditions:

   a. The MTO program shall be limited to a maximum five percent (5%) reduction in work hours/pay for the fiscal year. When the maximum MTO reduction (5%) is implemented, the involved employee shall be credited with three (3) days of float time.

   b. Float Time accrued through the MTO Program must be taken in the fiscal year following the furlough, with supervisory approval, or the leave will be forfeited. The float days have no cash value upon termination of employment. If an employee is laid off before having the opportunity to take unused furlough induced float time, said employee would be eligible to take the unused furlough induced float time during the thirty-day layoff notice period.

   c. Should the City of San Rafael experience a financial windfall during the fiscal year that furloughs are implemented, the City agrees to re-open discussions on this Furlough Program.

   d. The City agrees that it will attempt to distribute the dollar value of any MTO time implemented equally over the remaining number of pay periods in the fiscal year.

RESOLUTION NO.

AMENDED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL ESTABLISHING THE COMPENSATION AND WORKING CONDITIONS FOR UNREPRESENTED MID-MANAGEMENT EMPLOYEES
(July 1, ~~2021~~ 2024 through June 30, ~~2024~~2027)

1. MID-MANAGEMENT EMPLOYEES

The Mid-Management Employees of the City of San Rafael are the Mid-Management Job Class Titles ("Mid-Managers") enumerated in Exhibit A, attached hereto and incorporated herein. This Resolution shall constitute the compensation and conditions of employment for ~~the~~ Unrepresented Mid-Managers for the period from July 1, ~~2021~~ 2024 through June 30, ~~2024~~2027.

2. SALARY AND COMPENSATION GOALS

A. GOALS AND COMPENSATION DEFINITIONS

It is the goal of the City Council to try to achieve a total compensation package for all Mid-Managers that is competitive compared to similar cities in our labor market. The survey cities are Fairfield, Hayward, San Leandro, South San Francisco, Alameda, Napa, Novato and Santa Rosa. The Council's goal is to attract and retain the most qualified Mid-Managers in accordance with the City's ability to pay.

Total Compensation for survey purposes shall be defined as: Top step salary (excluding longevity pay steps), educational incentive pay, holiday pay, uniform allowance, employer paid deferred compensation (except for such portion that may be part of employee cafeteria plan), employer's contribution towards employees' share of retirement, employer's retirement contribution, employer paid contributions toward insurance premiums for health, life, long term disability, dental and vision plans, management allowance, and employer paid cafeteria/flexible spending accounts.

B. COMPENSATION SURVEYS

In order to measure progress towards the above-stated goal, the City shall survey ~~the identified Management benchmark positions (Exhibit B) to assess the related~~ Mid-Management positions in the final year of the Resolution in advance of discussions regarding a successor Resolution.

Identified ~~benchmark~~ positions from other agencies include positions that are filled as well as those that may be unfilled, so long as the ~~benchmark~~ position is identified by the survey agency as being on the salary schedule and having a job class description. Other city/agency positions are established as benchmark positions in San Rafael's compensation survey based upon similar work and similar job requirements.

The City shall review the ~~benchmark and related~~ survey data for accuracy and completeness. The City shall provide the survey data to all Mid-Managers. During the term of this Resolution, Mid-Managers agree to work with the City to identify and implement a new benchmark strategy such as an alignment of Mid-Manager salaries with the respective department director.

C. SALARY INCREASES

~~*Prior year contract extension – restoration of 3% base wage:* For FY 20-21, all bargaining groups (except WCE, Local 1, Mid-Management and Executive Management) received a 3% base wage increase for the 1-year contract extension which was implemented for FY 20/21. The timing of the COVID-19 pandemic and the associated financial losses which were projected at that time, resulted in an unintended disparate treatment of the bargaining groups. WCE, Local 1, Mid-Management and Executive Management did not receive this same 3% base wage increase for FY 20-21. However, the City is now in a financial position to "restore" the 3% base wage increase to those groups. The 3% base wage increase will apply to the Elected City Clerk and Elected City attorney positions and is reflected in the salaries listed below.~~

Individual classification salary increase percentages depend on the labor market adjustment applied to each position. The salary schedule included with this salary resolution authorizes the proposed new salary for each position.

3. INSURANCE

Health & Dental Insurance benefits are prorated for part-time employees in accordance with the percentage of full-time work schedule. Domestic partners who are registered with the Secretary of State and same-sex spouses are considered dependents under these benefits. Pertinent taxes will be applied to coverage provided to registered domestic partners and same sex spouses as required by federal and state laws.

A. HEALTH INSURANCE

1. **Health Insurance for Active Employees**. Effective January 1, 2009, the City implemented a full flex cafeteria plan for active employees, in accordance with IRS Code Section 125. Active employees participating in the City's full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the full flex cafeteria plan.

The monthly flex dollar allowance effective the paycheck of ~~December 15, 2020~~July 1, 2024 shall be:

For employee only:	$ ~~673.42~~735.86
For employee and one dependent:	$~~1,346.82~~1,471.71
For employee and two or more dependents:	$~~1,750.88~~1,913.24

The monthly flex dollar allowance effective the paycheck of December 15, 2024, shall be:

For employee only:	$ 950.00
For employee and one dependent:	$ 1,900.00
For employee and two or more dependents:	$ 2,400.00

Effective December 15, 2025, and December 15, 2026, the flex dollar allowances shall increase on the December 15th paycheck up to a maximum of five percent (5.0%) on an annual basis. If the Kaiser Bay Area premium rate increase is less than five percent (5.0%), the flex dollar allowance shall only increase the amount of the Kaiser Bay Area premium increase. In the event that the Kaiser Bay Area premium rate increase for the upcoming calendar year exceeds ten percent (10%) and is less than fifteen percent (15%), the City and the employee will split the cost of the increase above ten percent (10%) evenly; each paying 50% of the dollar value of the increase between 10-15%.

~~**Flex**~~ **Upon the expiration of this resolution,** the flex dollar allowances shall increase on the December 15th paycheck of each subsequent year ~~by~~ up to a maximum of three percent (3%) on an annual basis, based on but not to exceed the Kaiser Bay Area premium rate increase for the upcoming calendar year.

The City shall contribute to the cost of medical coverage for each eligible employee and his/her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The balance of the monthly flex dollar allowance (after the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health benefits ~~or may be converted to taxable income~~.

Conditional Opt-Out Payment: An employee may elect to waive the City's health insurance coverage and receive the value of the Employee Only contribution as a monthly Opt-Out payment in accordance with the terms of the cafeteria plan, and the Affordable Care Act, if the employee complies with the following conditions:

1) The employee certifies that the employee and all individuals in the employee's tax family for whom coverage is waived, have alternative Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act through a provider other than a federal marketplace, a state exchange, or an individual policy.

2) During the City's annual open enrollment period, the employee must complete an annual written attestation confirming that the employee and the other members of the employee's tax family are enrolled in alternative Minimum Essential Coverage. The employee agrees to notify the City no later than 30 days if the employee or other member(s) of the employee's tax family lose coverage under the alternative Minimum Essential Coverage Plan.

3) The employee understands that the City is legally required to immediately stop conditional opt-out payments if the City learns that the employee and/or members of the employee's family do not have the alternative Minimal Essential Coverage.

The City reserves the right to modify at any time, the amount an employee is eligible to receive under this paragraph, if required by IRS Cafeteria Plan regulations, other legislation or Federal and/or California agency guidance.

Miscellaneous Allowance for Employees hired on or before January 1, 2009:
The City shall pay to employees hired on or before January 1, 2009, a miscellaneous allowance in an amount equivalent to the difference between the employee's benefit election for coverage under PEMHCA and their flex dollar allowance, if their benefit election under PEMHCA exceeds their flex dollar allowance. The miscellaneous allowance shall be treated as income. An employee may use the miscellaneous allowance to pay for health coverage on a pre-tax basis as defined under the City's Cafeteria plan.

2. Health Insurance for Retirees

MID-MANAGERS HIRED PRIOR TO APRIL 1, 2007

a. **For Mid-Managers who retired before December 1, 2001,** the City's contribution to retiree medical premiums shall be the PEMHCA minimum contribution as designated by PEMHCA on an annual basis.

   Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage for the retiree, the retiree's spouse/registered domestic partner and/or qualified dependent children (as defined by PEMHCA) up to $442 per month. The City's longevity contribution shall remain in effect during the lifetime of the Mid-Manager and Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

b. **Mid-Managers who retired on or after December 1, 2001** from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael Mid-Management position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to receive upon retirement the PEMHCA minimum contribution as designated by PEMHCA on an annual basis.

   Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage for the retiree, the retiree's spouse/registered domestic partner and/or qualified dependent children (as defined by PEMHCA) capped at the contribution the City makes towards the health

coverage of active Mid-Manager employees. The City's longevity contribution shall remain in effect during the lifetime of the Mid-Manager and Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

As described in this subsection, the City shall reimburse retired Mid-Managers and their spouses or registered domestic partners the Medicare Part B standard premium amount as determined by the Centers of Medicare and Medicaid Services (CMS) on an annual basis. To initiate reimbursement, retirees must submit proof of payment of the Medicare Part B premiums to the Human Resources Department. If the Medicare Part B is deducted from social security, the retiree/spouse/domestic partner may submit a copy of the social security check, the Medicare Part B bill, or other relevant documentation. Reimbursements will be processed on a quarterly basis. This reimbursement shall remain in effect for the retired Mid-Manager's life and that of the retired Mid-Manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

MID-MANAGERS HIRED ON OR AFTER APRIL 1, 2007

Mid-Managers who are hired on or after April 1, 2007, and who retire from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.b.) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

Longevity Payments: The City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage, up to $600, for the retiree. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner or dependents. The City's longevity contribution shall cease upon the retired Mid-Manager's death.

The City shall not be responsible for reimbursing retired Mid-Managers and/or their spouses for any Medicare premiums paid by the retired Mid-Manager and/or the retired Mid-Manager's spouse or surviving spouse.

MID-MANAGER HIRED ON OR AFTER JANUARY 1, 2009

Mid-Managers who are hired on or after January 1, 2009, and who retire from the Marin County Employees Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERS laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.c) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

The City shall not be responsible for reimbursing retired Mid-Managers and/or their spouses for any Medicare premiums paid by the retired Mid-Manager and/or the retired Mid-Manager's spouse or surviving spouse.

The City shall additionally make available a retiree health care trust to enable these employees to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by the mandatory annual conversion of ~~50~~ 80 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of 75 hours of sick leave after the conversion.

B. LIFE INSURANCE

The City shall provide a basic group life insurance plan in the amount of $~~150,000~~300,000 at no cost to the employee.

C. LONG-TERM DISABILITY INSURANCE

The City shall provide long term disability (LTD) insurance, at no cost to the employee, with a benefit of two-thirds (2/3) of the employee's monthly salary, up to a maximum benefit of $7,500 (reduced by any deductible benefits).

D. DENTAL INSURANCE

The City shall make available to employees, an additional flex dollar allowance equal to $113 per month to purchase dental coverage under the City's dental plan. The City shall pay dental premiums on behalf of the employee and eligible dependents.

E. VISION PLAN

The City will contract for and pay for a vision plan for "employee plus dependent" vision benefits.

F. EMPLOYEE ASSISTANCE PLAN

The City provides an Employee Assistance Program (EAP) with confidential personal counseling on work and family related issues such as eldercare, substance abuse, etc. Supervisors may also utilize the EAP to refer employees to counselors for work related assistance.

G. STATE DISABILITY INSURANCE

Employees will have the full premium cost for State Disability Insurance (SDI) coverage automatically deducted from their paycheck and no City contribution will be made toward participation in the plan. It is incumbent upon the employee to keep the City advised of their medical status, within Health Insurance Portability and Accountability Act (HIPAA) guidelines, regarding their eligibility for SDI.

4. RETIREMENT

A. *EMPLOYER PAID MEMBER CONTRIBUTION (EPMC)*

Each Mid-Manager is responsible for paying the full cost of their employee contribution rate as established by the Marin County Employee Retirement Association.

Effective September 1, 2013, in accordance with MCERA and City administrative requirements, all Mid-Management employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by the Marin County Employees Retirement Association, in addition to the current employee contribution towards pension as determined by MCERA.

The only employees excluded from this payment are long-term City employees with thirty or more years of City service who no longer have to pay any employee contribution to the Marin County Retirement System.

B. *COLA*

Mid-Managers participating in the Marin County Employee Retirement Association will pay their full share of members' cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Miscellaneous and safety member contribution rates include both the basic and COLA portions (currently 50% of the COLA is charged to members as defined in the 1937 Act).

C. RETIREMENT PLAN

The City shall provide the Marin County Employee Retirement Association 2.7% @55 retirement program to all miscellaneous Mid-Manager subject to Marin County Employee Retirement Association

procedures and regulations and applicable 1937 Act laws. This is based on an employee's single highest year of compensation.

Employees hired on or after July 1, 2011 will receive an MCERA retirement benefit at the formula 2% at 55, calculated based on the average of their highest three years of compensation, in accordance with MCERA regulations. The annual pension adjustment shall be a maximum of 2% COLA. Minimum retirement age is 55.

Employees hired by the City on or after January 1, 2013 who are defined as "new members" of MCERA in accordance with the Public Employees' Pension Reform Act (PEPRA) of 2013, shall be enrolled in the MCERA 2% @ 62 plan for Miscellaneous members. The employee is responsible for paying the employee contribution of half of the total normal cost of the plan, as defined by MCERA, through a payroll deduction. Final compensation will be based upon the highest annual average compensation earnable during the thirty-six (36) consecutive months of employment immediately preceding the effective date of ~~his or her~~their retirement or some other period designated by the retiring employee.

D. *SERVICE CREDIT FOR SICK LEAVE*

Mid-Managers who are eligible to accrue sick leave and who retire from the City of San Rafael, on or after 07/01/95 and within 120 days of leaving City employment (excludes deferred retirements), shall receive employment service credit (incorporated from Resolution #9414, dated July 17, 1995), for retirement purposes only, for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive and they elect to receive in compensation for at the time of retirement, pursuant to Section 5 A. of this Resolution). This provision will no longer be available to Mid-Managers hired after June 30, 2009.

E. *MANAGEMENT ALLOWANCE*

As of September 16, 2015, the Management Allowance of 4.54% was rolled into base pay for all Unrepresented Mid-Management employees.

F. *DEFERRED COMPENSATION*

The City will contribute one and six hundredths percent (1.06%) of pensionable compensation toward a City-provided deferred compensation plan.

5. LEAVES OF ABSENCE

A. *SICK LEAVE*

Mid-Managers shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment. Accrued sick leave may be used during their probationary period.

Mid-Managers who leave City service in good standing shall receive compensation (cash in) of all accumulated, unused sick leave based upon the rate of three percent (3%) for each year of service up to a maximum of fifty percent (50%) of their sick leave balance. In the event of the death of an employee, payment for unused sick leave (based upon the previously stated formula) shall be paid to the employee's designated beneficiary.

Mid-Managers may accrue unlimited sick leave for usage purposes. However, a maximum of one thousand, two hundred hours (1,200) accrual applies for cash-in purposes at the time of City separation.

Mid-Managers may use sick leave prior to completion of probation. In recognition of Mid-Managers' exempt status under FLSA, time off for sick leave purposes shall not be deducted from a Mid-Manager's sick leave accrual, unless the employee is absent for the full work day.

Use of sick leave for work-related injuries or illnesses shall not be required when it is determined by the treating physician that this status is permanent and stationary.

B. *VACATION LEAVE*

1. **Vacation Accrual** - Vacation is accrued when an employee is on pay status and is credited on a semi-monthly basis. Eligible employees accrue vacation at the following rate for continuous service performed in pay status:

Years of service	Leave Accrual rate/yearly
1-5 years	15 days
6 years	16 days
7 years	17 days
8 years	18 days
9 years	19 days
10 years	20 days
11 years	21 days
12 years	22 days
13 years	23 days
14 years	24 days
15 plus years	25 days

In recognition of Mid-Managers' exempt status under FLSA, time off for vacation leave purposes shall not be deducted from a Mid-Manager's vacation accrual unless the employee is absent for the full work day.

2. **Administration of Vacation Leave**

The City Manager may advance vacation leave to a Mid-Manager; prior approval is required. Mid-Managers may accrue a maximum of 250 hours of vacation. Vacation leave accrual shall resume once the employee's accumulated vacation leave balance falls below the accrual limit of 250 hours. Mid-Managers who terminate their employment shall be paid in a lump sum for all accrued vacation leave earned prior to the date of termination. Mid-Managers may not utilize accrued vacation, administrative leave time, or personal leave time to extend their retirement date and service credit at the end of their city service. The vacation accrual may be increased to a maximum of 300 hours at the discretion of the City Manager.

3. **Annual Option for Payment of Accrued Vacation Leave**

A Mid-Manager who has taken at least ten (10) days of vacation in the preceding twelve (12) months, may request that ~~his/her~~their accrued vacation, not to exceed fifty-two and 1/2 (52.5) hours, be paid to ~~him/her~~them in cash. The request may be granted at the discretion of the City Manager. Mid-Managers may not cash-in more than fifty-two and 1/2 (52.5) hours within any twelve (12) month period.

C. *ADMINISTRATIVE LEAVE*

Mid-Managers shall receive ten (10) Administrative Leave days (75 hours) each calendar year subject to the approval of the Department Director and the City Manager. An additional three (3) days may be granted at the discretion and with approval of the department director and the City Manager. Unused Administrative Leave shall not carry over from one calendar year to the next, nor shall unused Administrative Leave balances be paid to a Mid-Manager upon ~~his/her~~their resignation.

In recognition of exempt status under FLSA time off for Administrative leave purposes shall not be deducted from a Mid-Manager's administrative leave accrual, unless the employee is absent for the full work day.

D. *HOLIDAYS*

City shall provide ~~eleven~~ twelve designated holidays and ~~two~~ one (1) floating holiday~~s~~ per calendar year to Mid-Managers. The hours for the floating holidays are automatically added to an employees' vacation accrual on a semi-annual basis.

In order to be eligible for compensation for the paid holiday, the employee must both be in paid status on the day before the holiday and on the day after the holiday.

All employees who are required to work on a day designated as an authorized holiday, other than a day on which an election is held throughout the state, shall be paid at the applicable rate of pay for the number of hours actually worked.

City paid holidays, and the days on which holidays are observed, are outlined in the annual holiday schedule.

E. *BEREAVEMENT LEAVE*

In the event of the death of a Mid-Manager's spouse, registered domestic partner, child, parent, ~~brother, sister~~sibling, parent in-law(s), grandchild, grandparent, relative who lives or has lived in the home of the employee, to such an extent that the relative was considered a member of the immediate family and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, ~~the City shall provide bereavement leave~~ up to a maximum of ~~three~~ five (~~3~~5) days may be granted for paid bereavement leave. All bereavement leave must be exhausted within 3 months of the date of the death of the family member and may be taken intermittently. ~~within the state and five (5) days out-of-state.~~

In those cases where the death involves an individual who had such a relationship with the employee, as defined above, the employee shall sign a simple affidavit describing the relationship and submit this to the City Manager as part of the request for bereavement leave. Directors may make a request to the City Manager, to use bereavement leave for a relative other than those listed above.

The above bereavement clause shall also apply in the event of a reproductive loss for an employee. The City agrees to maintain employee confidentiality related to the reproductive loss leave.

F. *CATASTROPHIC LEAVE*

All Mid-Managers shall abide by the City's Catastrophic Leave Policy.

G. *PAID PARENTAL LEAVE*

Effective July 1, 2024, any employee who has been continuously employed by the City for at least 12 months prior to the start of the leave shall be eligible for Paid Parental Leave (PPL) to use within 12 months of the following eligible events:

1. Birth of a child of the employee, the employee's spouse, or the employee's registered domestic partner.

2. Placement of a child with the employee for adoption.

For the purposes of PPL, the definition of "parent" and "child" are as defined by the California Family Rights Act.

Benefit and Use:

1. Eligible employees shall be granted 300 PPL hours to use within 12 months of the qualifying event for the purposes of disability due to pregnancy and/or baby bonding. Regular part-time employees shall be eligible for a prorated number of PPL hours, based on scheduled and budgeted FTE.

2. PPL is based on a 12-month rolling calendar. No more than 300 PPL hours may be used in any 12- month period. PPL may not be used or extended beyond the 12-month time frame and any accrued and unused PPL will be forfeited at the end of the 12-month period for the qualifying event.
3. Upon termination of the employee's employment at the City, they will not be paid for any accrued and unused PPL for which they were eligible.
4. PPL is based on the employee's regularly scheduled hourly base wage. It is considered "paid status" for the purpose of merit, seniority, benefit premium contributions, retirement service credit, vacation and sick leave accrual, and City benefit eligibility and contributions.
5. PPL shall be used in a block of continuous time or on an intermittent or reduced schedule. Intermittent leaves or reduced schedules must be arranged and approved by the employee's supervisor in advance.
6. PPL shall run concurrently with FMLA/CFRA and with PDL as set forth in paragraph 7, below. Eligible employees will be reinstated to the same or equivalent position in accordance with FMLA/CFRA protections. This may include altered assignments to accommodate the department's operational needs when the employee is working a reduced work schedule.
7. Pregnancy Disability Leave (PDL): An eligible employee on PDL must reduce their sick leave balance to 40 hours or less to use PPL concurrently with PDL. An eligible employee is not required to further reduce their balance once they have reached the initial threshold of 40 hours or less.

Coordination of Benefits & Leaves:

• PPL taken under this policy will run concurrently with leave under the FMLA, CFRA, and PDL once the eligible employee's sick leave balance is reduced to 40 hours or less.

• PPL will be fully integrated with any short-term disability or California Paid Family Leave program but shall not exceed one hundred percent (100%) of the employee's normal gross salary rate.

• The use of Short-Term Disability (STD) and Paid Family Leave (PFL) will not reduce available hours under the PPL leave entitlement.

• For time covered by FMLA/CFRA job protected leave for baby bonding purposes, PPL must be used prior to other accrued leave or unpaid leave except as discussed in number 7 above.

• If an employee has exhausted FMLA/CFRA entitlements for reasons other than baby bonding, PPL must be used prior to other accrued leaves or Leave Without Pay for arranged leaves for the purpose of baby bonding. Scheduling of non-FMLA/CFRA protected PPL is subject to department approval.

• An employee who is eligible for PPL but is on leave for other reasons cannot use PPL except as described in paragraph 7 above.

F. *End of Life Care Leave*

Eligibility:

Effective July 1, 2024, employees who have been continuously employed by the City for at least 12 months prior to the start of the leave shall be eligible for End of Life Care leave to provide end of life care for an immediate family member, which shall include an employee's spouse, registered domestic partner, child, parent, sibling, parent, parent in-law(s), grandparent, or grandchild.

End of Life care may be used to provide support, assistance and care to an immediate family member, as defined above, who is receiving end of life services through hospice or a medical facility.

Benefit and Use:

1. Eligible employees shall receive 80 hours of End of Life Care leave to be used during their employment with the City for use to support an immediate family member near the end of life, as described above.
2. Upon termination of the employee's employment at the City, they will not be paid for any accrued and unused End of Life Care leave for which they were eligible. Further, if an employee leaves City employment and returns to City service later in their career, the employee shall receive any unused hours from their previous employment with the City but shall not be granted any additional hours of for End of Life Care Leave.
3. End of Life Care leave is based on the employee's regularly scheduled hourly base wage. It is considered "paid status" for the purpose of merit, seniority, benefit premium contributions, retirement service credit, vacation and sick leave accrual, and City benefit eligibility and contributions.
4. End of Life Care leave shall be used in a block of continuous time or on an intermittent or reduced schedule. Intermittent leaves or reduced schedules must be arranged and approved by the employee's supervisor in advance.
5. End of Life Care shall run concurrently with FMLA/CFRA. Eligible employees will be reinstated to the same or equivalent position in accordance with FMLA/CFRA protections. This may include altered assignments to accommodate the department's operational needs when the employee is working a reduced work schedule.
6. An employee who is eligible for End of Life Care Leave but is on leave for other reasons cannot use PPL except as described in paragraph 5 above.

6. EMPLOYMENT TERMS

A. *HOURS OF WORK*

The WORK WEEK will reflect thirty-seven and one-half (37.5) hours for all job classes. Unless otherwise designated, the normal business hours for vacation, sick and administrative leave deduction and sick and administrative leave accrual purposes for Mid-Managers shall be 7.5 hours per day.

B. *DRUG FREE WORK PLACE*

All Mid-Managers shall abide by the City's Drug and Alcohol Policy.

C. *FURLOUGH PLAN*

Mid-Managers endorse the Furlough Program described in Exhibit ~~C~~ B attached to this Resolution.

D. *PAY FOR PERFORMANCE EVALUATION SYSTEM*

Mid-Managers shall be evaluated annually based upon the evaluation program adopted by the City Council in October of 1996 and incorporated by reference herein.

E. *OUTSIDE EMPLOYMENT*

All Mid-Managers shall abide by the City's Outside Employment Policy.

F. *CITY VEHICLE*

Under limited circumstances, a city vehicle may be provided to a Mid-Manager if it is determined to be needed to complete his/her job duties and upon approval of the City Manager.

G. *UNIFORM ALLOWANCE*

If required to wear a uniform which is not provided by the City, employee shall receive an annual uniform allowance of $~~445~~ 545 per year, paid in two installments, in June and December.

H. *GYM REIMBURSEMENT*

Employees are eligible to receive up to $16.50 per month reimbursement for all eligible health and wellness expenses as follows: preventative medical examinations (minus any amount paid by a private insurance plan), paid health or gym club memberships, licensed weight loss facility memberships, physical therapy sessions, smoking cessation programs, wellness counseling, acupuncture, or meditation programs. Such reimbursement shall be reported as taxable income to the employee.~~Employees are eligible to receive up to $16.50 per month reimbursement for paid gym memberships. Such reimbursement shall be reported as taxable income to the employee.~~

I. *PROFESSIONAL DEVELOPMENT*

The City Manager commits to working with each department's management team to establish dedicated professional development time throughout the year.

J. *OUT OF CLASS COMPENSATION*

Employees assigned in writing by their Department Director to perform additional duties of a higher paid classification shall be compensated at a rate not less than 5% greater than the employee's current base salary. Eligibility for out-of-class compensation requires a minimum assignment of ten (10) consecutive days.

The out-of-class pay becomes effective on the first day of the assignment. If the assignment extends beyond four consecutive weeks, then the employee shall be compensated at the lower step of the classification within which the duties fall if that is greater than 5% of the employee's base pay. The Department Director is required to complete a Personnel Action Report (PAR), to initiate out-of-class compensation.

K. *BILINGUAL PAY*

Within the job classifications specified in this resolution an employee may receive bilingual pay for full fluency in a foreign language.

Full fluency is defined as a skill level that will allow the employee to fully assist someone else who does not speak English in coping with situations or problems by translating for, conversing with and/or reading or writing written material.

An employee can petition their Department Director for this bilingual pay incentive. With the Department Director's recommendation and on review by the Human Resources Director and approval of the City Manager the employee may begin to receive this bilingual pay incentive.

Criteria for approval of the bilingual pay incentive by the City Manager includes:

a. Certification by a recognized school of the appropriate skill level; and/or
b. Demonstrated ability of the proficiency level on the job; and
c. Department Director's recommendation and statement that the bilingual skill of the employee can be of value to the department and the employee in the completion of their regular work assignments.

Employees who have been approved for the bilingual pay incentive and are required in the performance of their duties to converse with the public in a language other than English shall receive an additional $200.00 per month above their base salary.

Employees who also translate official written documents to or from a language other than English shall receive an additional $50.00 for a total of $250.00 per month above their base salary.

This bilingual pay incentive shall be reviewed annually and as long as the employee demonstrates (by work experience or re-testing, as determined by the City of San Rafael) the full fluency skill level; and

as long as the Department Director indicates the value of this skill to the department and the employee in the completion of their regular work assignments.

Removal of the bilingual pay incentive would be considered a non-disciplinary action however removal of bilingual pay is appealable to the Human Resources Director. The determination of the Human Resources Director is not subject to any appeal/grievance procedure.

L. *AT WILL STATUS*

All positions covered by this resolution are at-will and as such serve at the pleasure of the appointing authority and may be removed at any time without cause and without right of appeal.

M. *SEVERANCE*

Except employees who have committed an abuse of office or position as defined by Government Code Section 53243.4 or committed a violation of the Fair Employment and Housing Act, an Unrepresented Executive Management employee who is involuntarily separated shall receive severance pay in a lump sum equal to the following, provided they sign a settlement and general release provided by the City:

- 1 year of service = two months of salary and two months of COBRA health insurance.
- 2 years of service = three months of salary and three months of COBRA health insurance.
- 3 years of service = four months of salary and four months of COBRA health insurance.
- 4 years of service = five months of salary and five months of COBRA health insurance.
- 5 or more years of service = six months of salary and six months of COBRA health insurance.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a special meeting of the Council of said City held ~~on~~ the 19th 21st day of July June 2021 2024 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

_____

LINDSAY LARA, CITY CLERK