



SAN RAFAEL CITY COUNCIL – MONDAY, NOVEMBER 4, 2019

**SPECIAL MEETING AT 6:00 PM
CITY MANAGER’S CONFERENCE ROOM, CITY HALL
1400 FIFTH AVENUE, SAN RAFAEL, CALIFORNIA**

1. Park and Recreation Commission Interviews

Interview Applicants and Consider Appointments to Fill Two Four-Year Terms to the End of October 2023 and One Unexpired Four-Year Term to the End of May 2022 on the San Rafael Park and Recreation Commission (CC)

Recommended Action – Interview Applicants and Make Appointments

**REGULAR MEETING
COUNCIL CHAMBERS, CITY HALL
1400 FIFTH AVENUE, SAN RAFAEL, CALIFORNIA**

AGENDA

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

1. None.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

2. Closed Session: - None.

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

The public is welcome to address the City Council at this time on matters not on the agenda that are within its jurisdiction. Please be advised that pursuant to Government Code Section 54954.2, the City Council is not permitted to discuss or take action on any matter not on the agenda unless it determines that an emergency exists, or that there is a need to take immediate action which arose following posting of the agenda. Comments may be no longer than two minutes and should be respectful to the community.

CITY MANAGER’S REPORT:

3. City Manager’s Report:

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.

4. Consent Calendar Items:

a. Approval of Minutes

Approve Minutes of City Council / Successor Agency Regular Meeting of Monday, October 21, 2019 (CC)

Recommended Action – Approve minutes as submitted

- b. **Special Library Parcel Tax Committee Vacancy**
Call for Applications to Fill One Unexpired Four-Year Term on the Special Library Parcel Tax Committee Due to the Resignation of Pamela Cook (CC)
Recommended Action - Approve staff recommendation

- c. **Revision of the City of San Rafael Alarm Ordinance**
Final Adoption of Ordinance 1973: An Ordinance of the City of San Rafael City Council Amending Chapter 8.20 of the San Rafael Municipal Code Regulating Intrusion Detection Alarm Systems (CC)
Recommended Action - Final Adoption of Ordinance 1973

- d. **Tri-Annual Building Code Ordinance Amendments**
Introduction: An Ordinance of the City of San Rafael City Council Amending Title 12 of the San Rafael Municipal Code Adopting the 2019 California State Construction Codes with Amendments and Setting a Public Hearing Date for Adoption (CD)
Recommended Action - Pass Ordinance to print and set Public Hearing for 11/18/19

- e. **Tri-Annual Fire Code Ordinance Amendments**
Introduction: An Ordinance of the City of San Rafael City Council Amending Chapter 4.08 of the San Rafael Municipal Code to Adopt By Reference the California Fire Code 2019 Edition with Amendments, the International Fire Code 2018 Edition, and Appendix A of the 2018 International Wildland-Urban Interface Code and Adopting Findings of Fact Supporting the Amendments to Such Codes and Setting a Public Hearing Date for Adoption (FD)
Recommended Action - Pass Ordinance to print and set Public Hearing for 11/18/19

- f. **Janitorial Services for the Downtown Library, Child Care Centers and Terra Linda Pool Restrooms**
Resolution Authorizing the City Manager to Execute A One-Year Agreement with Trinity Public Sector Solutions to Provide Janitorial Services at the Downtown Library, Child Care Centers and Terra Linda Pool Restroom In An Amount Not to Exceed \$90,000 (PW)
Recommended Action - Adopt Resolution

- g. **Termination of Local Emergency**
Resolution Proclaiming the Termination of a Local Emergency (CC)
Recommended Action - Adopt Resolution

SPECIAL PRESENTATION:

- 5. Special Presentation:
 - a. Presentation of Helen Putnam Award to the City of San Rafael by League of California Cities

 - b. Presentation of Proclamation to Mark Bustillos for His Service on the Park and Recreation Commission

- c. Presentation of Proclamation to the San Rafael Pacifics

PUBLIC HEARINGS:

6. Public Hearings:

a. **Short-Term Rental Ordinance and Policy Resolution**

- 1) Consideration of An Ordinance of the City of San Rafael City Council Amending Section 14.03.030 and Section 3.20.020 of the San Rafael Municipal Code, and Adding New Chapter 10.110 Entitled “Short-Term Rental Program” (CD)
Recommended Action – Pass Ordinance to Print
- 2) Resolution of the City of San Rafael City Council Adopting Policies and Procedures for the Administration of the “Short-Term Rental Program” as Set Forth in San Rafael Municipal Code Chapter 10.110 (CD)
Recommended Action – Adopt Resolution

b. **Noise Ordinance Amendments for Utility Power Outages**

- Consideration of An Ordinance of the City of San Rafael City Council Amending Chapter 8.13 of the San Rafael Municipal Code Entitled “Noise” to Add an Exemption from Noise Regulations for the Use of Generators for Emergencies and Utility Power Outages (CD)
Recommended Action – Pass Ordinance to Print

OTHER AGENDA ITEMS

7. Other Agenda Items:

a. **SEIU Local 1021 – Child Care Unit Memorandum of Understanding**

- Discussion and Consideration of a Memorandum of Understanding (MOU) Pertaining to Compensation and Working Conditions for SEIU Local 1021 – Child Care Unit (November 1, 2019 Through October 31, 2021) (HR)
Recommended Action – Direct staff to return with Resolution adopting MOU

COUNCILMEMBER REPORTS / REQUESTS FOR FUTURE AGENDA ITEMS:

(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

8. Councilmember Reports:

SAN RAFAEL SUCCESSOR AGENCY:

- 1. Consent Calendar: - None.

ADJOURNMENT:

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 in the City Clerk’s Office, Room 209, 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 and assistive listening devices may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@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. Public transportation is available through Golden Gate Transit, Line 22 or 23. Paratransit is available by calling Whistlestop. Wheels at (415) 454-0964. To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products.



SAN RAFAEL CITY COUNCIL STAFF REPORT

Department: City Clerk

Prepared by: Lindsay Lara, City Clerk

City Manager Approval: _____

TOPIC: PARK AND RECREATION COMMISSION INTERVIEWS

SUBJECT: INTERVIEW APPLICANTS AND CONSIDER APPOINTMENTS TO FILL TWO FOUR-YEAR TERMS TO THE END OF OCTOBER 2023 AND ONE UNEXPIRED FOUR-YEAR TERM TO THE END OF MAY 2022 ON THE SAN RAFAEL PARK AND RECREATION COMMISSION

RECOMMENDATION:

Interview the following applicants and appoint three applicants to fill two four-year terms and one unexpired four-year term on the Park and Recreation Commission, with terms to expire October 31, 2023 and May 31, 2022.

Names
Ariel Gutierrez
Cicily Emerson
Jeren Seibel
Laurie Etheridge
Mark Machado

BACKGROUND:

At the meeting of [August 5, 2019](#), the City Council called for applications for the Park and Recreation Commission to fill two four-year terms to the end of October 2023 and one unexpired four-year term to the end of May 2022 due to the expiration of terms of Mark Bustillos and Mark Machado, and the resignation of Nicholas Skewes-Cox. Nine (9) applications were received in the City Clerk’s Office by the deadline of Tuesday, August 27, 2019 and incumbent Mark Bustillos did not reapply. Due to the volume of applications received, a subcommittee of the City Council carried out an initial review of the nine applications and selected six to be interviewed by the full City Council. However, one applicant withdrew her application. If the City Council decides to appoint an alternate incumbent to a full-member term, it would create an additional vacancy on the Park and Recreation Commission and the City Council has the authority to appoint another applicant to fill that vacancy.

COMMUNITY OUTREACH:

The call for applications for the Park and Recreation Commission was advertised in Snapshot (the City Manager’s e-newsletter), the City website, Nextdoor and Facebook social media platforms.

FOR CITY CLERK ONLY

File Number:

Council Meeting:

Disposition:

FISCAL IMPACT:

There is no fiscal impact associated with this action.

RECOMMENDED ACTION:

Interview the following applicants and appoint three applicants to fill two four-year terms and one unexpired four-year term on the Park and Recreation Commission, with terms to expire October 31, 2023 and May 31, 2022.

ATTACHMENTS:

1. Five applications
2. Municipal Code Section 2.16.020 (Park and Recreation Commission)

Profile

Ariel _____ S _____ Gutierrez _____
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Park and Recreation Commission: Submitted

Email Address

Street Address

Suite or Apt

San Rafael _____
City

CA _____
State

94901 _____
Postal Code

Are you a resident of San Rafael

Yes No

Resident of the City of San Rafael for how many years?

8 years (and 13 years as a child)

Primary Phone

Alternate Phone

Rafael Racquet Club _____
Employer

General Manager _____
Job Title

Business Address

How did you learn about this vacancy? *

NextDoor

Interests & Experiences

Do you participate in any civic activities?

I currently serve as the Volunteer Coordinator for Sun Valley Elementary School PTO.

List any civic organizations of which you are a member:

Sun Valley Elementary School PTO

Education:

Cal Poly, San Luis Obispo, BS Economics Graduate, San Rafael High School

Why are you interested in serving on a board or commission?

I am interested in serving on the Park and Rec Commission because as a parent, I want to see a thriving and active Park and Rec department in San Rafael, and as a professional in the field of recreation, I think I could be add value to the commission. I am a (nearly) lifelong resident of San Rafael. I attended Sun Valley Elementary, Davidson Middle School and San Rafael High School. At SRHS I was an active member of ASB, including a year spent as the Student Member of the San Rafael School Board. After college and 8 years in San Francisco, my husband and I moved to San Rafael because we wanted to raise our family in a diverse and tight-knit community. San Rafael has not disappointed. We've enjoyed countless hours exploring the City, walking downtown for Farmer's Markets, watching the Pacifics play and enjoying the parks and open space. We spend our days jetting from school to sports to activities and have been so happy to see the community thrive. Our children are now 5 and 8 and attending Sun Valley where I serve as the Volunteer Coordinator for the PTO as well as spending two years as a Grade Level Representative and as an in-classroom volunteer. I am a big believer in giving back to one's community through volunteerism as it is critical to building and maintaining a community that serves all. I look forward to expanding my scope of volunteerism as the kids head out to Davidson and SRHS in the future. This is what drives me to seek a position on the Park and Rec Commission; I am invested in San Rafael and I want to give my time and energy to renew that investment. I understand that the challenges facing the department today run the gamut: budget concerns, modernization, diverse populations, to name a few. I believe that I could help navigate these challenges and offer fresh perspective. Professionally, I have managed a recreation facility as the General Manager for nearly 10 years. This experience gives me a unique perspective as an end of the line decision maker and someone deeply involved in the day to day management of a recreational facility. I have extensive knowledge of long-term budgeting and planning, facilitate decisions balancing multiple groups of interested parties, manage a direct staff of seven and a total staff of 35-90 (seasonally), and work to balance the needs of the business with the desires of the users. Further, I have experience in large projects as I managed a multi-year \$5 million remodel, replacing an aging pool, remodeling our club house, and creating new social spaces for our families. It is such a treasure for a community to have a thriving Park and Rec department. The opportunities offered by park and rec to families, aging seniors and everyone in between, is one of the most important ways in which a community stays happy and healthy. In addition to the ongoing important work of providing park and rec opportunities for the public, the department is experiencing a handful of exciting opportunities to make an impact on our community such as the contributions to the General Plan 2040, the merge with library services and much more. I believe that I could be a valuable asset to a well-balanced and involved Park and Rec Commission, and sincerely hope that I will be considered for the position. Thank you for your time.

Describe possible areas in which you may have a conflict of interest with the City:

None known.

[Ariel Gutierrez Resume August2019.pdf](#)

Upload a Resume

Question applies to Design Review Board, Park and Recreation Commission, Planning Commission

NOTE: All Design Review Board, Planning Commission and Park & Recreation Commission members are required to file Fair Political Practices Commission Conflict of Interest Statements, which are open to public review.

[Resolution # 12129]

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.

Ethnicity:

To which gender to your most identify?

A solid black rectangular redaction box covering the response to the gender question.

How old are you?

A solid black rectangular redaction box covering the response to the age question.

Ariel Gutierrez



Summary

An experienced professional with a background in financial management, revenue and membership generation, project management, communications, and facilities operations. Results-focused, solution-oriented, creative-thinker, and ability to work in a fast-paced and multi-faceted environment.

Work Experience

General Manager

January 2010 - Present

Rafael Racquet Club, San Rafael, CA

Manages all aspects of private, member-owned swim and tennis club (500+ members)

- Oversees \$2 million annual budget
 - Monitors monthly budgets and prepares financial statements
 - Manages capital fund allocations, growth and development in accordance with strategic plan
 - Prepares financial reports to Board of Directors
 - Manages cash flow and all operating costs
- Human Resources/Personnel
 - Oversees a diverse staff of 35+ year-round, as well as additional 70+ seasonal staff
 - Recruits, hires, and trains new employees in accordance with Club's personnel policy and in accordance with applicable state and federal laws
- Operations
 - Develops and implements the Club's strategic growth plan
 - Initiates, develops, and implements all operational policies
 - Oversees all department heads to ensure each department is following proper personnel procedures
 - Oversees care and maintenance of Club's physical assets and facilities, including oversight of all special projects
 - Acts as Liaison between membership and Board of Directors
 - Develops, initiates, and assesses Club programs and services offered to members
 - Manages relationships with all outside vendors, contractors, service providers, and firms
- Construction management
 - Oversaw \$5 million facility remodel in multiple phases
 - Oversaw strategic plan implementation
 - Led marketing and operational plan to gain member approval for funding
 - Worked with Board of Directors to secure bank loans and select a General Contractor
 - Managed daily project progression to ensure project was on time and on budget
- Marketing/Communications
 - Coordinates marketing and membership relations programs to promote Club's services and facilities to current and potential members
 - Implements communications strategy that includes email marketing, website updates, and other outreach
 - Communicates regularly with members to ensure membership satisfaction
 - Maintains web and online content

Assistant Manager

June 2006 – December 2009

Rafael Racquet Club, San Rafael, CA

- Maintained regular communications with members via newsletters
- Used various marketing strategies to increase visibility in the community and recruit new members (flyers, email marketing, etc.)
- Created and led onboarding process and orientations for new members
- Regular interface with Board of Directors
- Developed summer youth programming: Summer Camps for 6 weeks with 100 participating youth and 8 staff
- Participated on strategic planning committee for \$5 million Club remodel
- Supervised 25 seasonal staff including lifeguards and summer camp assistants

Member Services and Communications Liaison

March 2002 – June 2006

Rafael Racquet Club, San Rafael, CA

- Designed monthly newsletters via Adobe Creative Suite to market instructional programs, tournaments, member socials, etc.
- Assisted Swim Coach: communicated with 150+ families regarding practice schedules and athlete progress
- Planned, coordinated and executed regular member events and socials for up to 100 guests
- Supervised 15 lifeguards seasonally

Swim Coach

Seasonally, February-May

San Rafael High School, San Rafael, CA

2003-2006

- Coached the Men's and Women's Varsity Swim Team
- Developed workouts and meet lineups for both teams
- Hosted the MCAL Championship meet in 2005; coordinate for all high schools the rental of pool space and equipment, arranged for dozens of volunteers and meet officials, coordinated media needs, ensured accuracy and fulfillment of meet data

Education & Trade

Cal Poly State University, San Luis Obispo, CA

Bachelor of Science: Economics 2001

Concentration: International Trade

Professional Member, Club Management Association of America

Profile

Cicily Emerson
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Park and Recreation Commission: Submitted

[Redacted]
Email Address

[Redacted]
Street Address

[Redacted]
Suite or Apt

San Rafael
City

CA
State

94901
Postal Code

Are you a resident of San Rafael

Yes No

Resident of the City of San Rafael for how many years?

8

[Redacted]
Primary Phone

[Redacted]
Alternate Phone

County of Marin, Health and Human Services
Employer

Public Health Program Manager
Job Title

Business Address

[Redacted]

How did you learn about this vacancy? *

Other

Interests & Experiences

Do you participate in any civic activities?

I am active in Coleman Elementary School as a volunteer. As a government employee, I am engaged in a routine basis in various civic initiatives related to public health.

List any civic organizations of which you are a member:

I serve on the San Francisco HIV Planning Council, and am the current Alternate on the Park and Rec. commission in San Rafael.

Education:

See Resume

Why are you interested in serving on a board or commission?

There are many reasons. I have served as an alternate for the last several years and would like to be a voting member. I am ultimately interested in helping in any way to shape San Rafael as a thriving, welcoming and healthy community. As a long term Marin resident, parent of two school age children who go to Coleman and use the childcare and the parks, I understand the strengths and challenges for the City in these areas. I can serve as a liaison between the City and the County in areas of shared interest and concern. I think we can improve partnerships between government. The built environment has tremendous impact on public health, it is the spaces where people live, work, learn, and play that influence health more than what happens in the doctor's office. I can help bring the public health lens to the work. For example, things like mixed use agreements, park improvement plans, complete streets plans, etc. all increase access to physical activity which influences obesity rates. I am pleased to hear about plans for a specific park and rec plan. I would like to advocate for more "data-driven" planning with specific outcomes and metrics that are charted overtime. It have really enjoyed learning more about how City government works. Thanks for your consideration.

Describe possible areas in which you may have a conflict of interest with the City:

None

[Resume_2019.pdf](#)

Upload a Resume

Question applies to Design Review Board, Park and Recreation Commission, Planning Commission

NOTE: All Design Review Board, Planning Commission and Park & Recreation Commission members are required to file Fair Political Practices Commission Conflict of Interest Statements, which are open to public review.

[Resolution # 12129]

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.

Ethnicity:

To which gender to your most identify?

A solid black rectangular redaction box covering the response to the question above.

How old are you?

A solid black rectangular redaction box covering the response to the question above.

Cicily R. Emerson, M.S.W.

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██████████
██████████
██████████

Skills and Abilities

Public Health Administration
Community, Non-Profit and Government Planning
Research and Program Evaluation
Communications and Public Information
Organizational Development

Education

Graduate School of Social Welfare, University of California, Berkeley
MSW degree, Management and Planning, Health emphasis, May 1999
University of California, Berkeley
BA Degree in Anthropology, December 1992
Universitas Gadjah Mada, Yogyakarta, Indonesia
Education Abroad Program, summer and fall 1991

Professional Experience

Marin County Department of Health and Human Services August 2008-present

Public Health Program Manager

Communicable Disease Prevention and Control. Responsible for managing daily operations of the unit which includes surveillance of reportable communicable diseases and the Immunization Program. Also manage Marin HIV/AIDS grants program for prevention and Ryan White care services (around 1K in federal and state funding). Acts as public health Public Information Officer for public health preparedness program. Former duties included: Managing public information and external and internal communications for the Health and Human Services Department. Coordinating the Prevention Hub, an interdisciplinary group in the County of Marin that provided technical assistance and training on prevention practices that can change the environment where we live, learn, work and play.

Marin County Department of Health and Human Services August 2006-August 2008

Health Planner/Evaluator

Provided planning, evaluation, administrative and technical support for a variety of projects including: the Marin HIV/AIDS Care Council system of care; Marin Health and Wellness Campus programs; Maternal and Child Health Oral Health Programs; and Family Support Blueprint.

Continuum, San Francisco, CA November 2003-December 2005

Director of Prevention Services

The directorship included three HIV prevention programs including mobile rapid HIV testing, social network recruiting for people of color and prevention case management for high risk individuals in the Tenderloin. Created and implemented one of the first mobile rapid HIV testing programs funded by Center for Disease Control and Prevention demonstration grants under the Advancing HIV Prevention Initiative. Provided administration of programs in all areas including program planning, quality assurance, evaluation, and reporting.

Continuum, San Francisco, CA November 2000-November 2003

Research Coordinator

Coordinated the HOPE (Homebase Outcomes Program Evaluation) Study a randomized control trial evaluating the Homebase program, a demonstration project involving case management and housing for HIV positive individuals

being released from the San Francisco County Jails.

Contra Costa County Community Substance Use Services, fall 2000

Health Educator

Worked on various substance abuse prevention projects including working with community advisory boards and coordinating a monthly newsletter.

Polaris Research and Development, San Francisco, CA 1999-2000

Consultant

Provided technical support for the San Francisco HIV Prevention Planning Council. Supervised telephone and in-person interviewers for the San Francisco Department of Public Health's youth tobacco related attitude and behavior survey.

Community Health Academy, Oakland, CA 1998-1999

Consultant/ MSW Internship

CHA was a collaborative project between the Alameda County Public Health Department, the School of Public Health at UC Berkeley, and the Community formed to improve the health of the Fruitvale area of Oakland through community capacity building. Provided technical assistance to the Fruitvale Elementary School Healthy Start Collaborative and acted as a facilitator for an annual youth training based on the TODOS model for unlearning racism and building multi-cultural alliances.

Canal Community Alliance, San Rafael, CA 1997-1999

Research Coordinator

1997 Canal Women's Health Survey, 1999 Access to Health Care for Children in the Canal Community. These two studies were collaborative projects between the Canal Community Alliance and the Kaiser Foundation Research Institute. The research was a community-based survey that assessed health practices and habits in this predominately immigrant Latino community.

Marin County Department of Health and Human Services, CA 1997-1998

Consultant/MSW Internship

Participated in planning, program and policy development for adolescent and children's health services.

Polaris Research and Development Inc., San Francisco, CA 1996-1997

Health Research Interviewer

Conducted door to door surveys in English and Spanish in various low-income neighborhoods of the Bay Area for the Northern California Cancer Center's Breast and Cervical Cancer Intervention Survey.

Women's Needs Center, San Francisco, CA 1996

Health Educator Intern

Provided health education and counseling, chart prepping, and routine lab work for a free gynecological clinic as part of a nine month health education internship program.

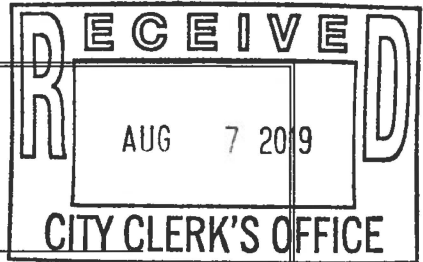
Occupational Health Services, San Rafael, CA 1994-1995

Intake Specialist

Provided benefit information, referrals, and crisis screening to clients contracted with large Employee Assistance/Managed Mental Health Care insurance company.

References and writing samples available on request.

CITY OF SAN RAFAEL
APPLICATION TO SERVE AS MEMBER OF THE
PARK AND RECREATION COMMISSION
(Limited to Two Consecutive Four-Year Terms)



NAME: Jeren Seibel

STREET ADDRESS: [REDACTED]

CITY/STATE/ZIP CODE: San Rafael, CA 94903

RESIDENT OF THE CITY OF SAN RAFAEL FOR 2.5 YEARS

PRESENT POSITION: Policy Analyst

NAME OF FIRM: Marin LAFCO

BUSINESS ADDRESS: 1401 Los Gatos Drive

*HOME & BUSINESS PHONE: [REDACTED]

*E-MAIL ADDRESS (optional): [REDACTED]

EDUCATION: B.S. Business Administration

PARTICIPATION IN THE FOLLOWING CIVIC ACTIVITIES: N/A

MEMBER OF FOLLOWING CIVIC ORGANIZATIONS: N/A

MY REASONS FOR WANTING TO SERVE ARE: Worked in P&R for 11 years, including time as the General Manager of the Recreation District. I have a desire to help shape San Rafael's recreation opportunities for its residents.

DESCRIBE POSSIBLE AREAS IN WHICH YOU MAY HAVE A CONFLICT OF INTEREST WITH THE CITY:

None.

DATE: 8/5/2019

SIGNATURE: [Signature]

Mail or deliver to:
City of San Rafael, City Hall, Dept. of City Clerk
1400 Fifth Avenue, Room 209, San Rafael, CA 94901

* Information kept confidential to the extent permitted by law

Profile

Laurie _____ Etheridge _____
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Park and Recreation Commission: Submitted

Email Address

Street Address

Suite or Apt

San Rafael _____
City

CA _____
State

94901 _____
Postal Code

Are you a resident of San Rafael

Yes No

Resident of the City of San Rafael for how many years?

8

Primary Phone

Alternate Phone

IDLab Global _____
Employer

Co-Founder _____
Job Title

Business Address

How did you learn about this vacancy? *

City Council Agenda

Interests & Experiences

Do you participate in any civic activities?

Yes. My son, husband and I have participated in a wide range of volunteer opportunities during our 8 years living in San Rafael. We have volunteered at the Marin food bank many times, helped restore plants with the Audobon Society through a Parks and Recreation led program and supported residents at the Ritter House and Gilead House.

List any civic organizations of which you are a member:

While working at Levi Strauss I was the executive sponsor of the Women's and Girls community involvement team, which included leading community outreach with teens and disadvantaged women. We partnered with various organizations including Casa del las Madres, Girls Up and Girls Inc.

Education:

I have a B.S. degree in Business Administration and an MBA in Business Administration.

Why are you interested in serving on a board or commission?

As a resident of San Rafael and a long-time resident of the Bay Area (San Francisco prior), I am excited to serve my community. I have been a business professional for 20+ years, leading teams, and bringing products to market. I would enjoy applying these skills to something that helps the greater good, close to home. The Parks and Recreation role specifically appeals to me as I live a very active lifestyle. Also, when I was President of a women's activewear brand, it required continuously considering innovative ways to think about exercise, physical space, and human behavior.

Describe possible areas in which you may have a conflict of interest with the City:

I see none.

[CV_LAURIE_ETHERIDGE_.pdf](#)

Upload a Resume

Question applies to Design Review Board, Park and Recreation Commission, Planning Commission

NOTE: All Design Review Board, Planning Commission and Park & Recreation Commission members are required to file Fair Political Practices Commission Conflict of Interest Statements, which are open to public review.

[Resolution # 12129]

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.

Ethnicity:

To which gender do you most identify?



How old are you?



PRESIDENT & CHIEF EXECUTIVE OFFICER

GLOBAL BRAND BUILDER | OPERATIONAL AND FINANCIAL ASSASSIN | HIGH INTEGRITY LEADER

Leading People, Products and Profitability- Positioning Organizations for Peak Performance

Visionary team builder leading the design, merchandising and, market launch of best-in-class ideas within billion-dollar omni-channel businesses as well as start-up environments across consumers, categories and countries. Respected go-to-market trailblazer emphasizing speed, scale and storytelling for a consumer-first mindset and a data driven approach- identifying growth opportunities, creating value. Turnaround expert, with a consistent record of transforming through innovation while quickly resolving operational bottlenecks and reversing financial losses. Mission driven, growth driver who formulates and implements effective strategies for exceptional consumer experience and thriving operations while driving significant ROI.

Areas of Excellence

Strategic Leadership • Product Merchandising and Management • E-Commerce • Brand Management • Executive Presentation Marketing • Buying and Planning • Global Team Development • P&L Management • Operations • Design Thinking

SNAPSHOT OF CAREER HIGHLIGHTS

- ✓ Award-winning, distinguished leader. Received a 93% CEO approval rating by Glassdoor.com and recognition as 1 of 8 executive leaders throughout 7,000 companies in 2016 for enterprise-wide standout executive team performance by Table Group Consulting.
- ✓ Tapped by VF Corporation, to turnaround 10-years of negative profits for Lucy Activewear. Created brand and product vision, restructured and streamlined operations, marketing and e-commerce strategy driving 26%+ revenue growth within 4 years.
- ✓ Member of Levi Strauss' 1st international executive team, globalizing the \$1B Levi Women's business. Built a peak-performing team of 150 product managers across China, South Korea, India, Europe, Australia, South Africa, Latin America and the US.
- ✓ Go-to-Market Strategist. Advised 6 diverse start-ups and well-established conglomerates across fashion, fitness, food, cannabis, energy and, technology sectors on merchandising, digital marketing, business strategy and product road map development.

STRATEGY AND OPERATIONAL LEADERSHIP CONTRIBUTIONS

IDLAB GLOBAL

2017 – Present

Co-Founder and Lead Strategist

Provide strategic guidance and go-to-market plans on a consultative basis for 6 start-up companies as well as established organizations across wide ranging sectors, including: fashion, fitness, food, cannabis, energy and, technology, beauty and blockchain. As a Board Member, contribute to long-term growth plans for the firm.

BARNRAISER

2018 – Present

Co-Founder and CEO, Advisor

Co-founded mission driven, food-based digital platform connecting small-batch food producers with consumers. Defined product strategy, brand positioning and social referral go-to-market model driving user acquisition on new mobile platform. Successfully attained 1st seed funding of \$600K for a Certified B Corp by leading compelling investment pitch development and presentation, positioning Barnrasier as the "Etsy of Food".

VF CORPORATION

2013 – 2017

President of Lucy Activewear

Hired to reverse a 10-year loss of the \$90M Lucy Activewear brand following its purchase by VF Corporation. In charge of P&L performance and a team of 450 in execution of a complex turnaround strategy across e-commerce, product merchandising and innovation, design, finance, operations, sales, marketing, merchandising and consumer experience. Overhauled operational structure including reduction of retail fleet, introduction of complete digital strategy, and expansion of distribution channels with leading wholesalers including, Dicks Sporting Goods and REI.

- Realized 26%+ revenue growth over 4 years in a declining retail landscape, reversing profitability decline from -\$12M to -\$1M.
- Positioned Lucy Activewear as 2nd best performing brand within VF 32 brand portfolio in 2016. Achieved this through product innovation, including design of a 3D printing technique, which was awarded a design patent.
- Cultivated new revenue channel opening +600 doors in Dick's Sporting Goods and 80+ doors in REI, becoming the most successful Women's activewear brand in REI, outperforming Nike and Under Armour within 3 months.

- Created integrated digital and social media strategy including partnerships with PopSugar, Mind/Body/Green. Increased brand fan community scope from 18k to 380k within Instagram and Facebook over 15 months.

LEVI STRAUSS & COMPANY

2011 – 2013

Global Senior Vice President of Women's Merchandising & Design

Rehired based on prior successes at Levi, to join the 1st international executive team focused on globalizing the 150-year old company, bringing brand consistency while meeting the unique needs of diversified regions for Levi women's \$1B business. Defined innovation strategy by channel, consumer segment and country. Mobilized diverse 150-person team across China, South Korea, India, Europe, Australia, South Africa, Latin America and the US. Created a unified global product range, standardized product manufacturing while enabling localization and regional pricing strategy.

- Drove +4% revenue growth on -43% less product while improving gross profit by 2 points over 2 years through successful implementation of the global product strategy.
- Turned around internal perception of the women's brand and positioned the business for dramatic growth. To date, the women's business consistently outperforms the men's business.
- Built and lead the 1st Levi's Women's global product team of 150, operating high-performing entrepreneurially inspired product and commercial hubs in China, South Korea, India, Europe, Australia, South Africa, Latin America and the U.S.
- Spearheaded the "Performance Through Shape" strategy for Levi's Revel that received a patent for shaping innovation.

PERRY ELLIS INTERNATIONAL

2010 – 2011

Senior Vice President of Merchandising & Design

Enlisted to manage highly diversified brands within the swim division generating \$100M in revenue. Managed a team of 25 in design, product management, planning and sales strategy for 4 distinct brands.

- Introduced new designs including, revitalizing the company's iconic 100+ year old brand Jantzen with a modernized design.

QUIKSILVER INC.

2007 – 2010

Senior Vice President, Product Management, Merchandising & Design Roxy/Quiksilver Women's

Brought on board to lead all product aspects of the \$380M Roxy business. Managed a 90-person team in design and merchandising across apparel and accessories. Created seasonal product innovation roadmap ensuring pipeline supported delivery of 150 unique products monthly, within 12-month GTM lead-time. Negotiated and managed licensing relationships with 3 partners.

- Introduced the 1st technology accessories within the surf brand space, an innovative concept at the time. Negotiated a highly lucrative collaborative licensing arrangement with Apple.
- Surpassed sales plan by 86%+ for the launch of Roxy Athletix, the 1st activewear concept within the surf industry.

SPEEDO DIVISION OF WARNACO

2005 – 2007

Vice President and GMM Performance and Girls

Recruited to revitalize brand and revenue performance of Speedo through the creation of an innovative men's and women's sleek style. Led a team of 25 in design, fabric sourcing and production. Spearheaded global strategic product innovation initiatives targeting young, contemporary consumers in specialty swim shops and online sites.

- Turned around an outdated brand and catapulted consumer interest by enlisting Michael Phelps as a brand ambassador, winning 8 gold medals in the 2008 Olympics while wearing the new Speedo product.
- Sparked +4% growth in a \$310M business, gaining unprecedented notoriety while establishing Speedo as a mainstay in the swimwear business.

LEVI STRAUSS & COMPANY

1995 – 2005

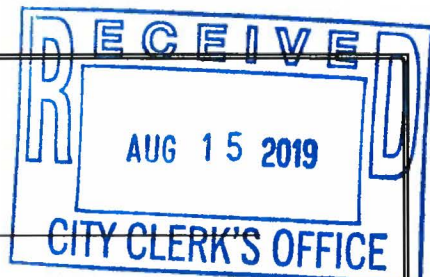
Merchandising Director, Sourcing Manager, Performance Consultant

Served in roles of progressive leadership during 10-year tenure with this denim jean powerhouse. Played integral role in the successful launch of the new ground-breaking Levi's Global Premium division, including Levi's RED, Levi's Vintage Collection and Levi's Engineered Jeans in North America. Managed seasonal costing, production, inventory and sourcing for 11,000 products.

EDUCATION

Master of Business Administration (MBA), University of California Berkeley Haas School of Business
Bachelor of Science, Business Administration, University of Phoenix
Blockchain Strategy Certificate, Oxford University

CITY OF SAN RAFAEL
APPLICATION TO SERVE AS MEMBER OF
PARK & RECREATION COMMISSION



NAME: MARK E. MACHADO

STREET ADDRESS: [REDACTED]

CITY/STATE/ZIP CODE: SE CA 94901

RESIDENT OF THE CITY OF SAN RAFAEL FOR 35 YEARS

PRESENT POSITION: PARK & RECREATION COMMISSIONER

NAME OF FIRM: ZEPHYR REAL ESTATE

BUSINESS ADDRESS: 350 BON AIR CTR #100, GREENBRATE

*HOME & BUSINESS PHONE: [REDACTED]

*E-MAIL ADDRESS: [REDACTED]

EDUCATION: BS Business Marketing - San Francisco State Univ

PARTICIPATION IN THE FOLLOWING CIVIC ACTIVITIES: PARK & REC COMMISSIONER

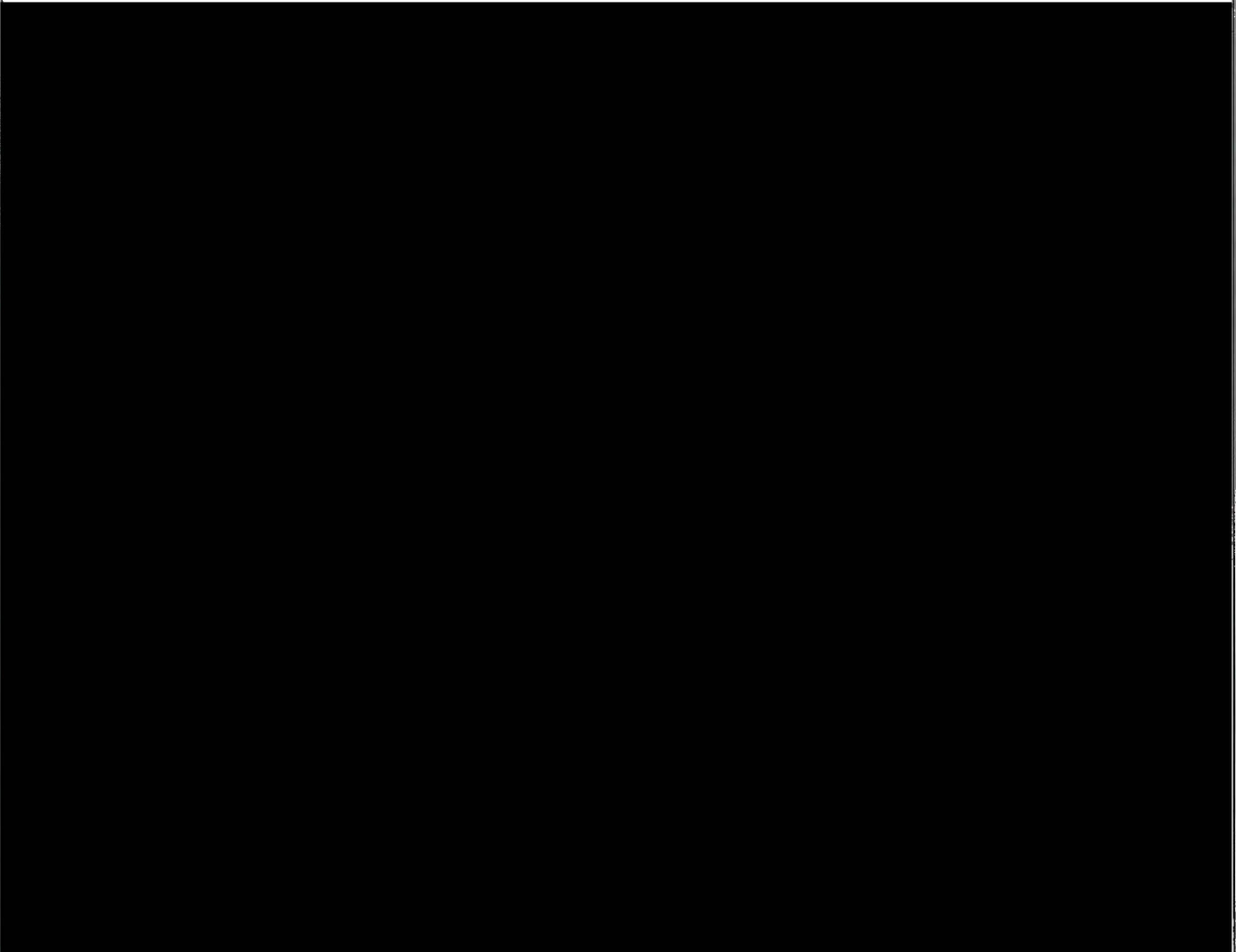
MEMBER OF FOLLOWING CIVIC ORGANIZATIONS: STATE DIRECTOR - CALIFORNIA ASSOCIATION OF REALTORS 2017, 2018, 2019. PRESIDENT - MARIN ASSOCIATION OF REALTORS 2018. SAN RAFAEL CHAMBER OF COMMERCE. BNI - Business Connections - San Rafael Chapter since 2006. Served as president, treasurer & secretary.

MY REASONS FOR WANTING TO SERVE ARE: The lives of our population are busy. With work, housing density, traffic & all the crazy things we experience Park & Recreation offers BALANCE to our daily lives. With Susan's guidance, I feel San Rafael can offer world class park & rec, libraries & child care. I enjoy being part of it!

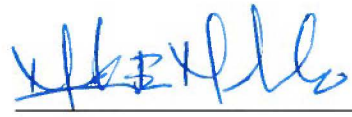
DESCRIBE POSSIBLE AREAS IN WHICH YOU MAY HAVE A CONFLICT OF INTEREST WITH THE CITY: I don't have any conflicts of interest with the city.

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.



DATE: 8/13/19

SIGNATURE: 

Filing Deadline:
Date: Tuesday, August 27, 2019
Time: 5:00 p.m.

Mail or deliver to: City of San Rafael, Dept. of City Clerk
City Hall, 1400 Fifth Avenue, Room 209
P.O. Box 151560, San Rafael, CA 94915

*Information kept confidential, to the extent permitted by law.

All About Mark Machado

Trust Mark Machado to handle the most important real estate decision you will make!



"It is all about the consumer. My goal is for the client to feel comfortable, secure and be aware of every nuance during their real estate transaction."

Mark was born and raised in San Francisco. He attended St. Ignatius College Preparatory and then San Francisco State University, where he graduated with a Bachelor of Science in Business Marketing. Mark worked for 15 years in the food and wine industry where he held a few different positions, from Sales Merchandiser to Regional Sales Manager. For the past 35 years, Mark has lived in Marin County. Mark resides in San Rafael with his wife, Linda, where they have raised two sons, Charlie and Daniel.

Mark began his real estate career in 2004. For the past four years, Mark is proud to represent Zephyr Real Estate, San Francisco's #1 independent real estate firm. Mark is part of a premium group of agents that strive to elevate Zephyr to #1 in Marin. Machado has received numerous awards during his time in the industry, most notably being elected the 2018 President for the 1350 member Marin Association of Realtors. Currently, Mark is finishing his three year term as a State Director for

the California Association of Realtors. He has also served as a Commissioner for the San Rafael Park and Recreation since 2011.

Machado has sold property all over Marin County as well as in San Francisco, Sonoma County and Lake Tahoe. He has represented buyers and sellers with properties ranging from \$175,000 to \$4.4 million. Nothing is too big or too small.

Machado's objective is to be "Your Heartbeat In Real Estate." This means that his clients will be aware of all that is taking place within the transaction and most of all, they will never feel alone. Whether a first time buyer or seasoned real estate investor, Mark will take care of every detail.

Communication is a key component of the real estate transaction and Mark ensures constant and consistent communication. Through email, text and phone, Mark will keep one abreast of all situations. Machado also belongs to several networking groups and has access to a terrific, professional team.

Trust Mark Machado to handle the most important real estate decision you will make!

SAN RAFAEL MUNICIPAL CODE

Chapter 2.16 - BOARDS AND COMMISSIONS

2.16.020 - Park and Recreation Commission.*

A Park and Recreation Commission is created. (Ord. 889 § 4, 1967: Ord. 511)

* Park Commission--See San Rafael Charter, Art. III § 52 and Art. VIII § 11.

2.16.021 - Commission membership--compensation.

The Park and Recreation Commission shall consist of seven members appointed by the City Council, one of whom may be a councilman. All members of the Park and Recreation Commission shall serve without compensation. (Ord. 1141 § 1, 1974: Ord. 889 § 5 (part), 1967)

2.16.022 - Commission term of office and removal.

Members of the Park and Recreation Commission shall serve for a term of four years and shall be subject to removal by the affirmative vote of three members of the council. The terms of office of members of the commission shall be staggered in the manner provided by resolution of the city council. (Ord. 889 § 5 (part), 1967)

2.16.023 - Commission 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 Parks and Recreation Commissioners shall be:

To assist in the preparation and adoption of a review annually and revise as necessary a long-range plan for parks including neighborhood parks, community-wide parks, special use facilities and open space lands;

To focus public attention upon the need for adequate parks and healthful and creative year-round supervised recreation for all age groups;

To assist in promoting the public recreation programs;

To solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein;

To assist the Parks and Recreation Director in establishing general policies and procedures in respect to park usage;

To review, comment and make recommendations regarding the annual operating budget of the department;

To receive periodic reports from the department head concerning the general operations and functions of the department;

To perform such other duties as may be prescribed by the council.

(Ord. 1131 § 2, 1974: Ord. 889 § 5 (part), 1967)

CHARTER OF THE CITY OF SAN RAFAEL

ARTICLE III - Powers of the City

Section 52. PARK COMMISSION.

To establish a park commission and to appoint commissioners thereon, to serve without compensation, with such powers and duties as may be fixed by the council.

ARTICLE VIII - Executive and Administrative Departments

Section 11. PARK AND RECREATION COMMISSION.

There shall be a park and recreation commission appointed by the council, the exact number of which shall be set by ordinance or resolution of the council, one of whom may be a councilman. The members of the commission shall serve for a term of four years, and shall be subject to removal by the affirmative vote of three members of the council. The terms of office of members of the commission shall be staggered in the manner provided by resolution of the council. The park and recreation commission shall exercise such powers and perform such duties as may be prescribed or conferred in this charter or by ordinances of the city.

(Assembly Concurrent Resolution No. 121, August 20, 1973:
Senate Concurrent Resolution No. 46, May 31, 1967.)

Minutes subject to approval at the City Council meeting of November 4, 2019

In the Council Chambers of the City of San Rafael, Monday, October 21, 2019 at 7:00 p.m.



Regular Meeting

San Rafael City Council

Minutes

Present: Mayor Phillips
Councilmember McCullough
Councilmember Bushey
Councilmember Colin
Councilmember Gamblin

Absent: None

Also Present: City Manager Jim Schutz
City Attorney Rob Epstein
City Clerk Lindsay Lara

[How to Participate in your City Council Meeting](#)

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL – 6:00 PM

1. Mayor Phillips announced Closed Session items.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL – 6:00 PM

2. Closed Session:

- a. Conference with Legal Counsel - Existing Litigation
Government Code section 54956.9(d)(1)
Name of case: Rotary Manor v. City of San Rafael, Marin County Superior Court
Case No. CIV 1702340
- b. Conference with Legal Counsel - Anticipated Litigation
Significant exposure to litigation pursuant to Government Code section
54956.9(d)(2): (One potential case)
- c. Conference with Labor Negotiators – Government Code section 54957.6
Lead Negotiator: Burke Williams & Sorensen LLP
Negotiating Team: Tim Davis, Shibani Nag, Susan Andrade-Wax, Kelly
Albrecht, Nadine Hade, Cristine Alilovich, Jim Schutz
Employee Organizations: SEIU – Child Care Unit

City Attorney Robert Epstein announced reportable action as to Closed Session item 2.a. The City Council voted unanimously, Councilmember Bushey absent, to approve a settlement agreement with Rotary Manor. The settlement agreement indicates the City would repair damages and pay a total sum of \$227,328.00, comprised of various elements including plaintiff's attorney fees and additional claims for loss of use.

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

- Carsten Andersen, Coalition of Sensible Taxpayers (COST), addressed the City Council regarding the Marin Wildfire Prevention Authority, Item 6.a on the Agenda
- Michael Parsons addressed the City Council regarding San Rafael Police Department staff and crime in San Rafael
- Lisa Levine, Baypoint Village Drive Homeowners Group, addressed the City Council regarding a city lot across the street from their homes

CITY MANAGER’S REPORT:

3. City Manager’s Report:

- City Manager Jim Schutz announced:
 - the Dia de los Muertos celebration at the Al Boro Community Center on November 2, 2019 at 3 p.m. followed by a community procession to start at 6:00 p.m. with cultural performances until 9:30 p.m.
 - the West End Village Celebration (Family Fun Day) on November 3, 2019, music starts at 11:00 a.m. and goes until 7:00 p.m.
 - the City received statewide awards from the League of California Cities for its work on the internal initiative 'Together San Rafael'. The League of California Cities would be presenting formally, and the League recognizes one jurisdiction for the award for internal administration for the City's work to modernize services and place the community at the center of service design and delivery
 - the League of California Cities honored the City with Beacon awards for Sustainability. The City won a series of Beacon awards including Greenhouse Gas reductions for the City of San Rafael, as well as the community, and the planning process. In addition, the City was one of a few cities in the state of California to receive an overall gold medal award

SPECIAL PRESENTATION:

4. Special Presentation:

a. Presentation of Proclamation to the San Rafael Pacifics

Mayor Phillips announced the presentation of the proclamation to the San Rafael Pacifics would be postponed.

CONSENT CALENDAR:

5. Consent Calendar Items:

The Mayor invited public comment on the Consent Calendar; however, there were none.

Councilmember McCullough moved and Councilmember Colin seconded to approve Consent Calendar Items:

- ##### **a. Approval of Minutes**
- Approve Minutes of City Council / Successor Agency Regular and Special**

Meetings of Monday, October 7, 2019 and the Special Study Session Meeting of Thursday, October 10, 2019 (CC)

[Regular and Special Minutes 2019-10-07 - Study Session Minutes 2019-10-10](#)

Approved Minutes as Submitted

b. Formation of Cannabis Industry Tax Oversight Committee

1) Resolution Approving the Formation of the Cannabis Industry Tax Oversight Committee (ED)

2) Call for Applications to Fill Three Four-Year Terms and Two Two-Year Terms on the Cannabis Industry Tax Oversight Committee (ED)

[Formation of Cannabis Industry Tax Oversight Committee](#)

1) RESOLUTION 14731 - RESOLUTION APPROVING THE FORMATION OF THE CANNABIS INDUSTRY TAX OVERSIGHT COMMITTEE

2) Approved staff recommendation

c. Quarterly Investment Report

Acceptance of the City Quarterly Investment Report for the Period Ending September 30, 2019 (Fin)

[Quarterly Investment Report](#)

Accepted Report

d. San Rafael Community Center (on "B" Street) Bathroom Renovation Project Resolution Awarding and Authorizing the City Manager to Execute a Construction Agreement for the San Rafael Community Center Americans with Disabilities Act-Compliant Bathrooms, to Argos Construction in the Amount of \$180,000, and Authorizing Contingency Funds in the Amount of \$20,000 for a Total Appropriated Amount of \$200,000 (PW)

[San Rafael Community Center \(on B Street\) Bathroom Renovation Project](#)

RESOLUTION 14732 - RESOLUTION AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT FOR THE SAN RAFAEL COMMUNITY CENTER AMERICANS WITH DISABILITIES ACT-COMPLIANT BATHROOMS, TO ARGOS CONSTRUCTION IN THE AMOUNT OF \$180,000, AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$20,000 FOR A TOTAL APPROPRIATED AMOUNT OF \$200,000

AYES: Councilmembers: Bushey, Colin, Gamblin, McCullough & Mayor Phillips

NOES: Councilmembers: None

ABSENT: Councilmembers: None

OTHER AGENDA ITEMS:

6. **Other Agenda Items:**

- a. **Marin Wildfire Prevention Authority
Resolution Authorizing the Mayor, on Behalf of the City of San Rafael, to Execute a Joint Exercise of Powers Agreement to Join the Marin Wildfire Prevention Authority and Requesting that the Marin County Board of Supervisors Place a Ten-Year Marin Wildfire Prevention Parcel Tax Measure on the March 3, 2020 Ballot (FD)**

[Marin Wildfire Prevention Joint Powers Authority](#)

City Manager Jim Schutz provided comments on the item and introduced Fire Chief Chris Gray who presented the staff report along with Novato Fire Chief and Marin County Fire Chief Association President Bill Tyler

Staff responded to questions from the City Council.

Mayor Phillips invited public comment

Speakers: Kelly London, Loch Lomond Homeowners' Associations President, Kingston Cole, Lincoln San Rafael Neighborhood Association, Pat Randolph, Marin Citizens for Wildfire Preparedness (CWP), Belle Cole, Marin Wildfire and Climate Coalition, Stan Burford, San Rafael Fire Commission, Larry Minikes, Marin Conservation League, Bill Carney, Sustainable San Rafael

There being no further comment from the audience, Mayor Phillips closed the public comment period

Staff responded to questions asked by the City Council and the public.

The City Councilmembers provided comments.

Councilmember McCullough moved and Councilmember Colin seconded to adopt the Resolution

RESOLUTION 14733 - RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF SAN RAFAEL, TO EXECUTE A JOINT EXERCISE OF POWERS AGREEMENT TO JOIN THE MARIN WILDFIRE PREVENTION AUTHORITY AND REQUESTING THAT THE MARIN COUNTY BOARD OF SUPERVISORS PLACE A TEN-YEAR MARIN WILDFIRE PREVENTION PARCEL TAX MEASURE ON THE MARCH 3, 2020 BALLOT

AYES: Councilmembers: Bushey, Colin, McCullough & Mayor Phillips

NOES: Councilmembers: Gamblin

ABSENT: Councilmembers: None

COUNCILMEMBER REPORTS / REQUESTS FOR FUTURE AGENDA ITEMS:

7. **Councilmember Reports:**

None.

SAN RAFAEL SUCCESSOR AGENCY

1. **Consent Calendar:**

Member Bushey moved and Member Colin seconded to approve the Consent Calendar

- a. **Quarterly Investment Report**
Acceptance of the Success Agency Quarterly Investment Report for the Period
Ending September 30, 2019 (Fin)
[Quarterly Investment Report](#)

Accepted Report

AYES: Members: Bushey, Colin, McCullough & Chairman Phillips
NOES: Members: Gamblin
ABSENT: Members: None

ADJOURNMENT:

Mayor Phillips adjourned the City Council meeting at 8:52 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS _____ DAY OF _____, 2019

GARY O. PHILLIPS, Mayor



SAN RAFAEL CITY COUNCIL STAFF REPORT

Department: City Clerk

Prepared by: Lindsay Lara, City Clerk

City Manager Approval: 

TOPIC: SPECIAL LIBRARY PARCEL TAX COMMITTEE VACANCY

SUBJECT: CALL FOR APPLICATIONS TO FILL ONE UNEXPIRED FOUR-YEAR TERM ON THE SPECIAL LIBRARY PARCEL TAX COMMITTEE TO THE END OF JULY 2022 DUE TO THE RESIGNATION OF PAMELA COOK

RECOMMENDATION:

1. Call for applications to fill one unexpired four-year term on the Special Library Parcel Tax Committee to the end of July 2022 due to the resignation of Pamela Cook.
2. Set deadline for receipt of applications for Tuesday, November 26, 2019 at 5:00 p.m. at City Hall in the City Clerk's Office, Room 209.

BACKGROUND:

The [Special Library Parcel Tax Committee's](#) mission is to ensure that the revenues received from the voter approved parcel tax are spent only on the uses outlined in Ordinance 1942. The Measure D Special Library Parcel Tax Committee consists of five members that [meet at least twice annually](#) and act as an independent citizens oversight committee to ensure that the Library spends the funds from the parcel tax in a manner consistent with the language of the ballot measure that approved the tax.

ANALYSIS:

The term of Pamela Cook is set to expire on June 30, 2022. However, Ms. Cook notified the Committee's staff liaison that she will be resigning from the Committee as of January 1, 2020. By approving this item, staff will be able to release a Call for Applications for eligible and interested community members to apply. Once applications are received and reviewed, the City Clerk's Office will schedule a special City Council meeting where the City Council will interview candidates and make a selection to appoint a candidate to complete the unexpired term of Pamela Cook.

FISCAL IMPACT: There is no fiscal impact associated with this action.

RECOMMENDED ACTION:

1. Call for applications to fill one unexpired four-year term on the Special Library Parcel Tax Committee to the end of July 2022 due to the resignation of Pamela Cook.
2. Set deadline for receipt of applications for Tuesday, November 26, 2019 at 5:00 p.m. at City Hall in the City Clerk's Office, Room 209.

ATTACHMENT:

1. Application Materials

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

ONE VACANCY - CITY OF SAN RAFAEL
SPECIAL LIBRARY PARCEL TAX COMMITTEE

Applications to serve on the San Rafael Special Library Parcel Tax Committee, to fill an unexpired four-year term to the end of July 2022, may be obtained online at <https://www.cityofsanrafael.org/boards-commissions/> and may be completed and submitted electronically. Hard copies of the application are also available online and in the City Clerk's Office.

The deadline for filing applications is **Tuesday, November 26, 2019 at 5:00 p.m.** in the City Clerk's Office, Room 209.

There is no compensation paid to Committee Members. Members must comply with the City's ethics training requirement of AB 1234, and reimbursement policy. See attached information.

Members of the Committee shall be at least 18 years of age and reside within the City limits. The Committee may not include any employee or official of the City, or any vendor, contractor or consultant doing business with the City.

Interviews of applicants are tentatively scheduled on a date to be determined.

Lindsay Lara
City Clerk
City of San Rafael



Boards and Commissions Application

Applicant Information

Full Name: _____

*Address: _____

Street Address *Apartment/Unit #*

City *State* *ZIP Code*

*Phone: _____ *Email _____

Resident of San Rafael for _____ years.

Employer: _____

Occupation: _____

Business Address: _____

Street Address *Apartment/Unit #*

City *State* *ZIP Code*

Education

Supplemental Questions

Participation in the following civic activities:

Member of the following civic organizations:

My reasons for wanting to serve are:

Describe possible areas in which you may have a conflict of interest with the City:

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.

Ethnicity:

- American Indian or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- Black or African American: a person having origins in any of the black racial groups of Africa.
- Hispanic or Latino: a person of Cuban, Mexican, Chicano, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- White: a person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- Two or More Races: a person who primarily identifies with two or more of the above race/ethnicity categories.

To which gender to your most identify?

- Male
- Female
- Nonbinary or Third Gender
- Prefer to self-describe
- Prefer not to say

How old are you?

- Under 18
- 18-24 years old
- 25-34 years old
- 35-44 years old
- 45-54 years old
- 55-64 years old
- 65-74 years old
- 75+ years old

Signature

Signature: _____ Date: _____

Filing Deadline:

Date: Tuesday, November 26, 2019
Time: 5:00 p.m.

Mail or deliver to:

City of San Rafael, Dept. of City Clerk
City Hall, 1400 Fifth Avenue, Room 209
San Rafael, CA 94903

*Information kept confidential, to the extent permitted by law.

SPECIAL LIBRARY PARCEL TAX COMMITTEE

I. Roles, Responsibilities and Duties:

A. The responsibilities and duties of the **Special Library Parcel Tax Committee** (Committee) shall be limited as follows:

1. The Committee's sole function shall be to review expenditures of the revenues from the Special Library Services Parcel Tax adopted by Measure D on June 7, 2016 to ensure the monies have been expended in accordance with the authorized purposes of Measure D.
2. The Committee shall take steps to understand the allowable expenditures of the Special Library Services Parcel Tax monies (as identified in Chapter 3.36 of the Municipal Ordinance).
3. The Committee shall take steps to understand municipal revenue collection and distribution from local, state and federal sources.
4. The Committee shall prepare and submit to the City Council and the community an annual public report on the expenditures of the Special Library Services Parcel Tax revenues for the previous fiscal year. (anticipated each December.)

B. The Committee shall not have any budgetary decision authority, shall not allocate financial resources, and shall not make budget or service recommendations to the City Council.

C. The Committee shall have no authority to direct, nor shall it direct, City staff or officials.

II. Committee Structure and Proceedings:

A. Appointments

The City Council shall make appointments to the Committee consistent with the established manner of appointing various City Commissions and related committee members.

The Committee shall be composed of up to seven (7) members, but no less than five (5) members.

B. Qualification Standards

Members of the Committee shall be at least 18 years of age and reside within the City limits. The Committee may not include any employee or official of the City, or any vendor, contractor or consultant doing business with the City.

C. Term

Committee members shall serve for a term of either four or five years. Member's terms are to be staggered. At the Committee's first meeting, members will draw lots to select three members to serve a five-year term, the remaining members will serve a four year term.

D. Chair and Vice-Chair

The Mayor shall appoint the initial Chair. The Chair shall appoint the initial Vice-Chair. Thereafter, the Committee shall annually elect a chair and a Vice-Chair, who shall act as Chair only when the chair is absent.

E. Compensation

The Committee members shall serve without compensation.

F. Meetings

1. The Committee shall conduct at least two regular meetings a year.
2. Special meetings may be called by the Committee's chair. Special meetings may also be called by Committee members if three or more members petition the chair for a special meeting.
3. All meetings shall be noticed and shall be open to the public in accordance with the Ralph M. Brown Act, Government Code Section 54950 et seq. Each member of the Committee will be given a current copy of the Ralph M. Brown Act.
4. A majority of the Committee members shall constitute a quorum for the transaction of any business.

G. Vacancies and Removal

1. The City Council shall fill any vacancies on the Committee.
2. The City Council may remove any Committee member for any reason, including but not limited to, failure to attend two consecutive regular Committee meetings. Upon a member's removal, his or her seat shall be automatically deemed vacant.

H. City Support

The City shall provide to the Committee necessary technical and administrative assistance as follows:

1. Preparation, provision and posting of public notices as required by the Brown Act and in the same manner as noticing City Council meetings.
2. Provision of a meeting room, including any available City audio/visual equipment.
3. Provision of meeting materials, such as agendas, minutes and supporting reports.
4. Retention of Committee records.
5. Properly staff all Committee meetings.
6. Educate committee members on municipal finance.

I. Termination of Committee

The Committee shall automatically disband six (6) months after the enabling ordinance is repealed, ruled invalid or terminates under the provisions of the ordinance

NOTICE TO BOARD & COMMISSION APPLICANTS REGARDING ETHICS TRAINING

On January 1, 2006, a new law became effective that requires two (2) hours of ethics training of the local legislative bodies by January 1, 2007. This new law defines a local legislative body as a "Brown Act" governing body, whether permanent or temporary, decision-making or advisory, and created by formal action of the City Council. In other words, any person serving on a City Council, Board, Commission, or Committee created by the Council is subject to this ethics training requirement. After this initial class, training will be required every two years.

Ethics training can be accomplished by taking a 2-hour class, self-study, or an on-line class. You may seek reimbursement for taking any authorized ethics class. The city staff member that is assigned to your committee can help you with the reimbursement process.

After you have completed the ethics class, the original certificate needs to be given to the City Manager's Office for record-keeping, with a copy kept for your records.

AB 1234 (Salinas). Local Agencies: Compensation and Ethics

Chapter 700, Statutes of 2005

This law does the following:

- **Ethics Training:** Members of the Brown Act-covered decision-making bodies must take two hours of ethics training every two years, if they receive compensation or are reimbursed expenses. The training can be in-person, on-line, or self-study. For those in office on 1/1/06, the first round of training must be completed by 1/1/07.
- **Expense Reimbursement -- Levels:** Local agencies which reimburse expenses of members of their legislative bodies must adopt written expense reimbursement policies specifying the circumstances under which expenses may be reimbursed. The policy may specify rates for meals, lodging, travel, and other expenses (or default to the Internal Revenue Service's (IRS) guidelines). Local agency officials must also take advantage of conference and government rates for transportation and lodging.
- **Expense Reimbursement -- Processes:** Local agencies, which reimburse expenses, must also provide expense reporting forms; when submitted, such forms must document how the expense reporting meets the requirements of the agency's expense reimbursement policy. Officials attending meetings at agency expense must report briefly back to the legislative body at its next meeting.



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Police

Prepared by: Dan Fink, Police Lieutenant

City Manager Approval: 

TOPIC: REVISION OF THE CITY OF SAN RAFAEL ALARM ORDINANCE

SUBJECT: ADOPTION OF ORDINANCE NO. 1973: AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING CHAPTER 8.20 OF THE SAN RAFAEL MUNICIPAL CODE REGULATING INTRUSION DETECTION ALARM SYSTEMS

RECOMMENDATION:

Adopt Ordinance No. 1973 amending San Rafael Municipal Code 8.20 regulating intrusion detection alarm systems.

BACKGROUND:

On August 19, 2019, the City Council held a public hearing and approved the introduction of an [ordinance](#) amending San Rafael Municipal Code Chapter 8.20 regulating intrusion detection alarm systems (“alarm ordinance”), and agendized the adoption of the ordinance at the regularly scheduled City Council meeting on September 3, 2019. In order to conduct further community outreach, the adoption of the ordinance was postponed.

COMMUNITY OUTREACH:

On October 10, 2019, the Police Department held a meeting with community stakeholders to discuss the details of the proposed alarm ordinance that was presented at the August 19, 2019 City Council meeting. The group of community stakeholders agreed that the alarm ordinance should be brought forward as written and also agreed to have it be adopted with the understanding that it would be reviewed again after one year.

Following one calendar year of implementation of the new alarm program associated with the alarm ordinance, the Police Department will report back to the City Council to provide statistical data on the performance of the new alarm program, which will measure, among other impacts, the change in false alarm calls for service.

The group of community stakeholders also discussed an appeals process for a false alarm citation. A member of the Police Department’s Administration division, along with a member of the business community, will meet to develop appeals criteria, which will be given to the third-party alarm vendor when approved.

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

FISCAL IMPACT:

This was addressed in the previous staff report when initially approved.

OPTIONS:

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

1. Adopt Ordinance No. 1973 as presented.
2. Direct staff to return with more information.
3. Take no action.

RECOMMENDED ACTION:

Adopt Ordinance No. 1973 amending San Rafael Municipal Code 8.20 regulating intrusion detection alarm systems.

ATTACHMENT:

1. Ordinance No. 1973 with proof of publication

ORDINANCE NO. 1973

**AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING
CHAPTER 8.20 OF THE SAN RAFAEL MUNICIPAL CODE
REGULATING INTRUSION DETECTION
ALARM SYSTEMS**

**THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS
FOLLOWS:**

DIVISION 1. FINDINGS.

1. In its current form, Chapter 8.20 of the San Rafael Municipal Code (“SRMC”) entitled “Intrusion Detection and/or Burglar Alarm and Fire Alarm Systems,” is outdated. The San Rafael Fire Department uses SRMC Chapter 4 to enforce fire alarm systems, therefore the language in SRMC Chapter 8.20 regarding the fire alarms is obsolete. The provisions governing intrusion detection alarm systems, commonly known as “burglar alarms,” have not been updated for over fifteen years.
2. Intrusion detection alarms were the fourth most frequent type of call for service for the San Rafael Police Department (SRPD) in 2018, with 2,412 calls. That is an average of 6.6 alarm calls per day, of which over 99% are false alarms. These alarms are false mainly due to human error, but significant weather can also trigger false alarms.
3. Since false alarms create a significant demand on the services of the City’s Police Department, City staff recommends, and the City Council finds, that SRMC Chapter 8.20 should be amended as set forth in this Ordinance, to incorporate best practices implemented by other Bay Area jurisdictions.

DIVISION 2. AMENDMENT OF MUNICIPAL CODE

Chapter 8.20 of the San Rafael Municipal Code, entitled “Intrusion Detection and/or Burglar Alarm and Fire Alarm Systems” is hereby amended to read in its entirety as follows:

Chapter 8.20 - INTRUSION DETECTION ALARM SYSTEMS

8.20.010 – Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

- (a) ***Alarm Administrator*** means a person or persons designated by the City to administer the provisions of this ordinance.
- (b) ***Alarm Company*** means a person, company, firm, or corporation which has the contractual agreement with the alarm user and is subject

to the licensing requirements, and engaged in selling, leasing, installing, servicing and/or monitoring alarm systems; this entity shall be licensed in compliance with city, county and state laws.

- (c) **Alarm event** means an alarm system activation, to which law enforcement is requested to respond.
- (d) **Alarm permit** means a permit issued to an alarm user by the City, allowing the operation of an alarm system within the City.
- (e) **Alarm system or Alarm** means an assembly of equipment installed at a fixed location designed to detect and/or verify an occurrence of an illegal or unauthorized entry or other activity to which law enforcement is requested to respond.
- (f) **Alarm user** means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning, leasing, or operating an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.
- (g) **Alarm User Awareness Class** means a class conducted for the purpose of educating alarm users about the responsible use, operation, maintenance of alarm systems and effective verification and false alarm reduction strategies.
- (h) **Cancellation** means that the alarm company provides notification that response by law enforcement is no longer being requested in connection with an alarm event. If cancellation occurs prior to law enforcement arriving at the scene, this will not be deemed to be a false alarm under this Chapter, and no penalty will be assessed.
- (i) **City** means the City of San Rafael or its agent.
- (j) **CP-01** means the ANSI - American National Standard Institute-approved Security Industry Association - SIA CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations are marked as follows: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."
- (k) **Communications Center** means the San Rafael Police Department's communications/dispatch center.
- (l) **Enhanced Call Confirmation** means an attempt by the alarm system monitoring company to contact the alarm site and/or alarm user, to determine whether an alarm event is valid before requesting law enforcement response. A second call will be made to contact the alarm user if the first attempt fails EXCEPT as defined by ANSI/CSAA CS V 01 2016 or current version, in case of a fire, panic, robbery-in-progress alarm or verified alarm.
- (m) **False Alarm** means the activation of an alarm system when, upon observation by law enforcement, there is no evidence of unauthorized entry, robbery, or other such crime attempted in or on the premises.
- (n) **Permit Year** means a twelve (12) month period beginning on the day and month on which an alarm permit is issued.

- (o) **Verified Alarm** is defined as an electronic security system event in which a trained central station operator utilizing a standardized protocol has determined the presence of human(s) and/or the high probability that a criminal offense is in progress. A verified alarm system may consist of a two-zone alarm activation, or an installed video, audio, or other approved verification technology. Verification of alarm response does not apply to duress, robbery, holdup, and panic alarms.

8.20.020 – Alarm Permit

- (a) **Permit Required.** No alarm user shall use an alarm system in the City without first registering for and obtaining a permit for such alarm system from the City. Each alarm permit shall be assigned a unique permit number, and the user shall provide the permit number to the alarm company to facilitate law enforcement dispatch.
- (b) **Application.** The permit shall be requested on an application form provided by the City. The application will include at least the following information:
 - 1) **Multiple Alarm Systems.** If an alarm user has one or more alarm systems protecting two or more separate structures or units having different addresses and/or tenants, a separate permit shall be required for each structure and/or unit.
 - 2) **Type of Verified Alarm System.** If an alarm user has an electronic verified alarm system protecting the premises, the permit application shall identify the type of verification system used (for example, video verification or audio verification.)
 - 3) **Installer of the Alarm System.** The name of service provider that installed the system, or if installed by the alarm user DIY (“do it yourself”).
 - 4) **Monitoring Agency.** The name of the monitoring station that is monitoring the alarm system.
- (c) **Annual Renewal Required.** Alarm permits must be renewed annually. Police response to a property without a valid annual renewal will be subject to the same fine as failing to register.
- (d) **Permit Fees.** A permit fee will be required for the initial registration and annual permit renewals. The fee will be established by resolution of the City Council adopted from time to time. No fee will be required for merely updating information on a valid permit.
- (e) **Reporting Updated Information.** Whenever the information provided on the alarm permit application changes, the alarm user shall provide correct information to the City within thirty (30) days of the change. In addition, each year after the issuance of the permit, permit holders will receive from the City a form requesting updated information. The permit holder shall complete and return this form to the City whether or not any of the requested information has changed; failure to comply

will constitute a violation of this Chapter and may result in a civil penalty.

- (f) ***Transfer of Possession.*** Alarm permits are not transferable. When the possession of the premises at which an alarm system is maintained is transferred, the alarm user obtaining possession of the property shall file an application for an alarm permit within thirty (30) days of obtaining possession of the property.

8.20.030 – Duties of the Alarm User

Every alarm user in the City has a duty to comply with the following requirements:

- (a) Maintain the premises and the alarm system in a method that will reduce or eliminate false alarms.
- (b) Provide the alarm company with the alarm user's alarm permit number so that the alarm company can provide it to the communications center to facilitate dispatch.
- (c) Respond or cause a representative to respond to the alarm system's location within a reasonable amount of time when notified by the San Rafael Police Department.
- (d) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.
- (e) Obtain a new permit and pay any associated fees if there is a change in address or ownership of the location of the alarm system.
- (f) Annually renew the alarm permit.
- (g) An alarm user that installs the system themselves (Do It Yourself or DIY) is subject to the same duties as described in Section 8.20.040 - Duties of the Alarm Company.

8.20.040 – Duties of the Alarm Company

- (a) Every alarm company engaged in business in the City shall comply with the following requirements:
 - 1) Obtain and maintain the required state, county and/or city license(s).
 - 2) Provide name, address, and telephone numbers of the alarm company license holder or a designee who can be called in an emergency, twenty-four (24) hours a day; and be able to respond to an alarm call, when notified, within a reasonable amount of time.
 - 3) Be able to provide the most current contact information for the alarm user; and to contact a key holder for a response, if requested.
 - 4) Prior to activation of the alarm system, the alarm company must provide instructions to the alarm user explaining the proper operation of the alarm system.

- 5) Provide alarm user customers with information on how to obtain service from the alarm company for the alarm system.
 - 6) After the effective date of this ordinance, for commercial accounts, alarm companies shall not install, modify or repair “single action” devices for the activation of Hold-up, Robbery or Panic Alarms. New devices for those purposes shall require two actions or an activation time delay to provide more positive assurance that the user intends to activate the device.
 - 7) After the effective date of this ordinance, alarm companies shall install only CP-01 compliant security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms,
 - 8) An alarm company responsible for monitoring services shall:
 - a. Ensure the monitoring center utilizes Enhanced Call Confirmation. The monitoring center shall make two (2) attempts to contact the user or users of an alarm system prior to requesting law enforcement response.
 - b. Provide the alarm user’s alarm permit number to the communications center to facilitate dispatch and/or cancellations.
 - c. Communicate to the communications center any available information regarding specifics of the alarm event.
 - d. Communicate a cancellation to the communications center as soon as possible following a determination that response is unnecessary.
- (b) **Existing alarm systems.** Within thirty (30) days after being notified in writing by the Alarm Administrator, an alarm company must provide to the alarm administrator a list of the names and addresses of existing alarm users in the City.
- (c) **New alarm systems.** Any alarm company that installs an alarm system on premises located within the City after the effective date of this ordinance must notify the Alarm Administrator within ten (10) days after the date of installation that an alarm system has been installed and provide the name and address of the alarm user.
- (d) **Purchased accounts.** An alarm company that purchases any alarm system account from another person or alarm company shall notify the Alarm Administrator of such purchase and shall provide the Alarm Administrator a complete list of the acquired customers. This information shall include the customer name, alarm site address, alarm permit number, and alarm company license number.
- (e) **Yearly account updates.** On or before the first of January of each year, an alarm installation company or monitoring company shall provide the Alarm Administrator with a complete list of active customers to assist the Alarm Administrator with creating and maintaining tracking data. The customer information must include: the customer name, the alarm site address, permit number, and the alarm company license number.

8.20.050 – Prohibited Acts

- (a) It shall be unlawful for any person to activate an alarm system for the purpose of summoning law enforcement when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.
- (b) It shall be unlawful to install, maintain, or use an audible alarm system that can sound continually for more than ten (10) minutes.

8.20.060 – Enforcement of Provisions

Civil Non-Criminal Violation. A violation of any of the provisions of this Chapter shall be a civil violation and shall not constitute a misdemeanor or infraction. In addition to any other remedies available to the City under this Code or state law, violations of this Chapter may be enforced as follows:

- (a) **Penalties for false alarms and other violations.** Upon occurrence of a false alarm or other violation of this Chapter, the Alarm Administrator may issue a notice of penalty to an alarm user imposing civil penalties as follows:
 - 1) First false alarm during permit year \$ 50.00
 - 2) Second false alarm during permit year \$100.00
 - 3) Third false alarm during permit year \$150.00
 - 4) Fourth false alarm during permit year \$200.00
 - 5) Fifth and subsequent false alarm during permit year \$250.00
 - 6) Failure to register or failure to renew permit \$100.00
 - 7) Other violations of this Chapter \$100.00
- (b) **Excessive false alarms.** It is hereby found and determined that eight (8) or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. After eight (8) false alarms within a permit year, the police response may be restricted to dispatching to only verified alarms.
- (c) **Payment of Civil Penalty(ies).** Civil penalty(ies) shall be paid within thirty (30) days from the date of the administrative citation.
- (d) **Discontinuance of Law Enforcement Response.** The failure of an alarm user to make payment of any civil penalty(ies) assessed under this ordinance within thirty (30) days from the date of an administrative citation may result in discontinuance of law enforcement response to alarm signals that may occur at the premises described in the alarm user's permit until payment is received.

8.20.070 – Alarm User Awareness Class

Alarm User Awareness Class. The City may establish an Alarm User Awareness Class and may request the assistance of the area alarm companies to assist in developing and conducting the class. The class shall inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms. The City may grant the option of attending an alarm user awareness class in lieu of paying one assessed penalty, not to exceed \$50.00. Alternatively, if the class can be delivered to the user as an online training module, the City may authorize the alarm user to satisfy the attendance requirement by participating in the online training module.

8.20.080 – Appeals

- (a) **Appeals Process.** Assessments of civil penalty(ies) and other enforcement decisions made under this Chapter may be appealed by filing a written notice of appeal with the San Rafael Police Department within thirty (30) days after the date of notification of the assessment of civil penalty(ies) or other enforcement decision. The failure to file a notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalty(ies) or other enforcement decision. Appeals shall be determined through an administrative process established by the City including a hearing by a hearing officer appointed by the City. Any person aggrieved by the decision of the hearing officer may obtain review of the decision by filing a notice of appeal with the Marin County courts in accordance with the timelines and provisions set forth in California Government Code section 53069.4.
- (b) **Appeal Standard.** The hearing officer shall review an appeal from the assessment of civil penalty(ies) or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalty(ies) or other enforcement decision, the hearing officer shall have the discretion to dismiss or reduce civil penalty(ies) or reverse any other enforcement decision where warranted.

8.20.090 – Confidentiality

In the interest of public safety, all information contained in and gathered through the alarm registration/permit applications, response records, applications for appeals and/or any other alarm records of the City shall be held in confidence by all employees and/or representatives of the City to the maximum extent allowed by law.

8.20.100 – Government Immunity

Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response on the part of the City of San Rafael, the San Rafael Police Department, or any of their officers, employees or agents. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm registration, the alarm user acknowledges that the San Rafael Police Department response may be influenced by a variety of factors including but not limited to: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines in that this Ordinance regulates only the permitting, maintenance and use of intrusion detection ("burglar") alarm systems, and it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment,

DIVISION 4. SEVERABILITY.

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

DIVISION 5. EFFECTIVE DATE; 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 as of January 1, 2020. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers 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.



GARY O. PHILLIPS, Mayor

ATTEST:



LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1973 was read and introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 19th day of August 2019 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Gamblin & Mayor Pro Tem Colin

NOES: Councilmembers: None

ABSENT: Councilmembers: McCullough & Mayor Phillips

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 4th day of November 2019.



LINDSAY LARA, City Clerk

Marin Independent Journal

4000 Civic Center Drive, Suite 301
San Rafael, CA 94903
415-382-7335
legals@marinij.com

2070419

CITY OF SAN RAFAEL
CITY OF SAN RAFAEL
CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

PROOF OF PUBLICATION (2015.5 C.C.P.)


STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

08/23/2019

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 23th day of August, 2019.



Signature

PROOF OF PUBLICATION

Legal No. **0006387356**

SUMMARY OF ORDINANCE NO. 1973

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING CHAPTER 8.20 OF THE SAN RAFAEL MUNICIPAL CODE REGULATING INTRUSION DETECTION ALARM SYSTEMS

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1973, which will amend San Rafael Municipal Code 8.20, regulating intrusion detection alarm systems. Ordinance No. 1973 is scheduled for a second reading and adoption by the San Rafael City Council at its regular meeting of September 3, 2019. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

This ordinance will amend San Rafael Municipal Code 8.20 to bring the City's intrusion detection alarm ("burglar alarm") system regulations into conformance with current best practices.

The ordinance would continue the current requirement for an annual alarm permit that allows the City's Police Department to keep an up-to-date record of properties with alarm systems, with contact information for the occupants. The ordinance would require alarm users to obtain an alarm permit and to properly maintain and use their alarm. The ordinance would also impose duties on the alarm company.

The ordinance would provide for enforcement by civil penalties, including penalties for false alarms ranging from \$50 for the first false alarm to \$250 for the fifth or subsequent false alarms within the permit year. The proposed ordinance would also define the occurrence of 8 or more false alarms during a permit year to be a public nuisance that may result in a limitation of police response to the offending property.

Copies of Ordinance No. 1973 will be available for public review as of Wednesday, August 23, 2019, at the San Rafael City Clerk's Office, 1400 Fifth Avenue, 2nd Floor, Room 209 during regular business hours, 8:30 a.m. to 5:00 p.m., and on the City's website: <https://www.cityofsanrafael.org>. You may also contact the City Clerk at (415) 485-3066 for information.

LINDSAY LARA
San Rafael City Clerk
Dated: 8/21/2019

NO. 1086 August 23, 2019

SUMMARY OF ORDINANCE NO. 1973

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LINDSAY LARA
San Rafael City Clerk
Dated: 10/16/2019

Marin Independent Journal

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2070419

CITY OF SAN RAFAEL
CITY OF SAN RAFAEL
CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

10/18/2019

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 18th day of October, 2019.



Signature

PROOF OF PUBLICATION

Legal No. **0006413138**

SUMMARY OF ORDINANCE NO. 1973

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LINDSAY LARA
San Rafael City Clerk
Dated: 10/16/2019

No. 1325 OCT. 18, 2019



Agenda Item No: 4.d
Meeting Date: November 4, 2019

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development

Prepared by: *Don Jeppson*
Don Jeppson, AIA CBO
Chief Building Official

City Manager Approval: *[Signature]*

TOPIC: TRI-ANNUAL BUILDING CODE ORDINANCE AMENDMENTS

SUBJECT: INTRODUCTION OF PROPOSED ORDINANCE AMENDING TITLE 12 OF THE SAN RAFAEL MUNICIPAL CODE ADOPTING THE 2019 CALIFORNIA STATE CONSTRUCTION CODES WITH AMENDMENTS AND SETTING A PUBLIC HEARING DATE FOR ADOPTION.

RECOMMENDATION:

1. Set a public hearing for Monday, November 18, 2019 regarding a proposed ordinance to amend Title 12 (Building Regulations) of the San Rafael Municipal Code to adopt by reference the 2019 California Building Code, 2019 California Residential Code, the 2019 California Mechanical Code, the 2019 California Plumbing Code, the 2019 California Electrical Code, the 2018 International Property Maintenance Code, the 2018 International Pool and Spa Code, the 2019 California Existing Building Code, the 2019 California Green Building Standards Code, and the California Referenced Standard Code with appendices and local amendments.
2. Introduce and pass to print: An Ordinance of the City of San Rafael City Council Amending Title 12 (Building Regulations) of the Municipal Code of the City of San Rafael, by Repealing Title 12 and Amending Title 12 Thereof; Adopting the 2019 Edition of the California Building Code, the California Residential Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, the California Existing Building Code, the California Green Building Standards Code, the California Energy Code, and the California Referenced Standards Code with Appendices and Amendments Herein; Adopting the 2018 Edition of the International Property Maintenance Code and the International Pool and Spa Code with Amendments Herein; Adopting Administrative and Program Provisions for the Codes; and Adopting Findings of Fact Supporting the Amendments to the Codes.

BACKGROUND:

The State of California Code of Regulations Title 24 construction codes are typically updated and published on a three-year cycle. The California Building Standards Commission publishes the tri-annual codes and State law mandates that these codes become effective throughout California 180 days after the publication date. For this latest cycle, the publication date was July 1, 2019, meaning that the current

_____ **FOR CITY CLERK ONLY** _____

File No.: _____

Council Meeting: _____

Disposition: _____

cycle of State construction codes becomes effective on January 1, 2020. This is done to foster uniformity in fire prevention, life/safety and construction standards statewide. Local jurisdictions are permitted to further amend the published codes based on and to suit local climatic, geological, or topographical conditions.

The proposed ordinance adopts the latest version of California Title 24 construction codes. Specifically, this includes the 2019 California Building Code, 2019 California Residential Code, the 2019 California Mechanical Code, the 2019 California Plumbing Code, the 2019 California Electrical Code, the 2018 International Property Maintenance Code, the 2018 International Pool and Spa Code, the 2019 California Existing Building Code, the 2019 California Green Building Standards Code, and the California Referenced Standard Code with appendices and local amendments. State law mandates that these codes become effective statewide on January 1, 2020, with or without the incorporation of local jurisdiction amendments. Building permit applications filed with the City prior to January 1, 2020 would be subject to the currently-adopted codes and City ordinance.

The purpose of the codes is to establish the minimum requirements to safeguard the public health, safety and general welfare through requirements for structural strength, means of egress, access to persons with disabilities, sanitation, adequate lighting and ventilation, and energy conservation; and to provide safety to fire fighters and emergency responders during emergency operations. Below is a summary of each of these codes:

2019 California Building Code: The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

2019 California Residential Code: The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above-grade in height with a separate means of egress and their accessory structures not more than three stories above the grade plane in height.

2019 California Mechanical Code: The provisions of this code shall apply to the installation, alteration, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings, and appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy related systems.

2019 California Plumbing Code: The provisions of this code shall apply to the installation, alteration, repairs and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, where connected to a water or sewage system, gas system, and all aspects of medical gas system.

2019 California Electrical Code: The provisions of this code shall apply to the installation and removal of electrical conductors, equipment, and raceways; signaling and communications conductors, equipment, and raceways; and optical fiber cables and raceways to public and private properties, including yards, lots, parking lots, buildings, structures, mobile homes, recreational vehicles, and floating buildings.

2018 International Property Maintenance Code: The provision of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light,

ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

2018 International Pool and Spa Code: The provisions of this code shall apply to the construction, alteration, movement, renovation, replacement, repair and maintenance of aquatic recreation facilities, pools, and spas. The pools and spas covered by this code are either permanent or temporary and shall be only those that are designed and manufactured to be connected to a circulation system and that are intended for swimming, bathing or wading. The purpose of this code is to establish minimum standards to provide a reasonable level of safety and protection of life, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location and maintenance or use of pools and spas.

2019 California Existing Building Code: The provisions of this code provide flexibility to permit the use of alternative approaches to achieve compliance with minimum requirements to safeguard the public health, safety and welfare insofar as they are affected by the repair, alteration, change of occupancy, addition and relocation of existing buildings. This code shall apply to the repair, alteration, change of occupancy, addition and relocation of all existing buildings, regardless of occupancy.

2019 California Historical Building Code: The provisions of this code provide regulations for the preservation, restoration, rehabilitation, relocation or reconstruction of buildings or properties designated as qualified historical buildings or properties. The intent is to facilitate and provide cost effective solutions for the preservation and continuing use of historical buildings or properties, while providing reasonable safety for building occupants and access for persons with disabilities.

2019 California Energy Code: The provisions of this code shall set minimum efficiency requirements for new and renovated buildings, assuring reductions in energy use and emissions over the life of the building.

2019 California Green Building Standards Code: The provisions of this code improve public health, safety and general welfare by enhancing the design and construction of buildings through use of building concepts having a reduced negative impact or positive environmental impact and encouraging sustainable construction practices.

2019 California Referenced Standard Code: The provisions of this code provide constructions standards.

Regarding the 2019 California Green Building Code, the ordinance has been drafted to recommend adoption of the Cal Green standards with the higher Tier 1 standards recommended for new construction only. This recommendation is consistent with the City Council's action [with the last code adoption](#).

The public hearing on the proposed ordinance will be held at the next regularly scheduled meeting of the City Council on November 18, 2019, a procedure required because the ordinance is adopting various adopted State codes by reference, with appropriate local amendments, per Government Code Sections 50022.1 through 50022.10.

ANALYSIS:

Most of the proposed local amendments are carried over from previous years. Title 12 is replaced with a new format that should be easier for users to read compared to the previous format. A couple of new provisions are added, including street addressing and reducing square footage in efficiency dwellings.

Regarding the revising of our green building standards, the proposed ordinance is drafted to recommend the City adopt the California Green Building Standards as proposed by the State and add a further requirement that all newly constructed buildings also comply with the more stringent Tier 1 requirements. This direction is consistent with the action taken by the Council at the last code adoption hearings in 2013 and 2017. Further review of the proposed Marin County Reach Codes is needed before staff can bring a recommendation to the City Council. Staff may bring a recommendation to adopt the Marin Reach Codes to the City Council some time in 2020 for consideration.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

ENVIRONMENTAL REVIEW:

It has been determined that the proposed ordinance amendments are covered by the 'general rule' that the California Environmental Quality Act (CEQA) applies only to projects which have the potential to cause a significant, physical environmental impact. Pursuant to CEQA Section 15061(b)(3), the ordinance amendments are not subject to environmental review.

OPTIONS:

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

1. Introduce the Ordinance and set the public hearing for adoption as proposed
2. Introduce the Ordinance with amendments as directed by the Council at the meeting and set the public hearing for adoption
3. Postpone introduction of the Ordinance to allow amendments to be incorporated into the Ordinance. Should the City Council decide to postpone adoption of the Ordinance, the State codes will become effective on January 1, 2020, without the benefit of the recommended local amendments.

RECOMMENDED ACTION:

1. Set a public hearing for Monday, November 18, 2019 regarding a proposed ordinance to amend Title 12 (Building Regulations) of the San Rafael Municipal Code to adopt by reference the 2019 California Building Code, 2019 California Residential Code, the 2019 California Mechanical Code, the 2019 California Plumbing Code, the 2019 California Electrical Code, the 2018 International Property Maintenance Code, the 2018 International Pool and Spa Code, the 2019 California Existing Building Code, the 2019 California Green Building Standards Code, and the California Referenced Standard Code with appendices and local amendments.
2. Introduce and pass to print: An Ordinance of the City of San Rafael City Council Amending Title 12 (Building Regulations) of the Municipal Code of the City of San Rafael, by Repealing Title 12 and Amending Title 12 Thereof; Adopting the 2019 Edition of the California Building Code, the California Residential Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, the California Existing Building Code, the California Green Building Standards Code, the California Energy Code, and the California Referenced Standards Code with Appendices and Amendments Herein; Adopting the 2018 Edition of the International Property Maintenance Code and the International Pool and Spa Code with Amendments Herein; Adopting Administrative and Program Provisions for the Codes; and Adopting Findings of Fact Supporting the Amendments to the Codes.

ATTACHMENT:

1. Draft Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL AMENDING TITLE 12 (BUILDING REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL, BY REPEALING TITLE 12 AND AMENDING TITLE 12 THEREOF; ADOPTING THE 2019 EDITION OF THE CALIFORNIA BUILDING CODE, THE CALIFORNIA RESIDENTIAL CODE, THE CALIFORNIA MECHANICAL CODE, THE CALIFORNIA PLUMBING CODE, THE CALIFORNIA ELECTRICAL CODE, THE CALIFORNIA EXISTING BUILDING CODE, THE CALIFORNIA GREEN BUILDING STANDARDS CODE, THE CALIFORNIA ENERGY CODE, AND THE CALIFORNIA REFERENCED STANDARDS CODE WITH APPENDICES AND AMENDMENTS HEREIN; ADOPTING THE 2018 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND THE INTERNATIONAL POOL AND SPA CODE WITH AMENDMENTS HEREIN; ADOPTING ADMINISTRATIVE AND PROGRAM PROVISIONS FOR THE CODES; AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO THE CODES.

THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

DIVISION 1. AMENDMENTS TO MUNICIPAL CODE.

Title 12 of the Municipal Code of the City of San Rafael is hereby repealed in its entirety and amended to read as follows:

TITLE 12 – BUILDING REGULATIONS

CHAPTER 12.100 - ADOPTED CODES

12.100.010 Adopted codes. The following recognized codes are hereby adopted by City of San Rafael together with the supplements, listed changes, additions and deletions as noted:

1. 2019 Edition, California Building Code (“CBC”), chapters 2 through 28, 30, 31, 32, 33, 35 and Appendices C, H, I, and N.
2. 2019 Edition, California Electrical Code (“CEC”).
3. 2019 Edition, California Energy Code (“CEgC”).
4. 2019 Edition, California Existing Building Code (“CEBC”), chapters 2 through 16 and Appendices.
5. 2019 Edition, California Green Building Construction Standards Code (“CalGreen”), chapters 1 through 8 and Appendices A4 and A5.
6. 2019 Edition, California Historical Building Code (“CHBC”).
7. 2019 Edition, California Mechanical Code (“CMC”) chapters 2 through 17.
8. 2019 Edition, California Plumbing Code (“CPC”), chapters 2 through 17 and Appendices A, C, D, and I.
9. 2019 Edition, California Referenced Standards Code.
10. 2019 Edition, California Residential Code (“CRC”), chapters 2 through 10, chapter 44, and Appendices H, J, K, O, Q, R, S, T, and X.
11. 2018 International Property Maintenance Code (“IPMC”) chapters 1 through 8 and Appendix A.
12. 2018 Edition, International Swimming Pool and Spa Code (“ISPSC”), chapters 2 through 11.

12.100.020 Local Design Criteria. The following are the local climatic and geographic design criteria:

Seismic Design Category: D/D2
Ground Snow Load (P_g): None
Weathering: Negligible

Climate Zone: 2
Termite Damage: Moderate to Heavy
Design Rainfall: 2”

Wind Exposure: C, unless site complies with definition for Exposure B.
Basic Design Wind Speed (V): Risk Category I: 85 mph;
Risk Category II: 90 mph
Risk Category III 95 mph
Risk Category IV: 120 mph.

12.100.030 Definition of words and terms. As used in the adopted codes and Title 12, inclusive, of the Municipal Code, City of San Rafael.

1. "Adopted codes" shall mean the codes listed in Section 12.100.10, as amended.
2. "Authority having jurisdiction" shall mean the chief building official or designated representative.
3. "Department" shall mean the San Rafael Building Division.
4. "FEMA" shall mean the Federal Emergency Management Agency.
5. "Jurisdiction" and other similar terms shall be construed to mean the City of San Rafael, California.
6. "SRMC" shall mean the Municipal Code, City of San Rafael.
7. "This code" shall mean the Building Code of the City of San Rafael.

12.100.040 Designation of the chief building official. Wherever the terms, "building official," "code official," "administrative authority," "chief building inspector," "chief electrical inspector," "building inspector," "authority having jurisdiction" and other similar terms that appear in the SRMC, or in those codes therein adopted by reference, they shall mean the "chief building official," or his designated representative.

12.100.050 Repeal of conflicting sections. All sections within the Municipal Code and those codes therein adopted by reference which are in conflict with the provisions of this chapter are hereby repealed.

CHAPTER 12.101 - GENERAL

12.101.010 Title. These regulations shall be known as the Building Codes of the City of San Rafael Building Code, hereinafter referred to as "this code".

12.101.020 Scope. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

12.101.020.1 Appendices. Provisions in any appendices of the adopted codes shall not apply unless specifically adopted.

12.101.020.2 California Building Code. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height, shall comply with this code or the California Residential Code.

12.101.020.3 California Existing Building Code. The California Existing Building Code is to provide flexibility to permit the use of alternative approaches to achieve compliance with minimum requirements to safeguard the public health, safety and welfare insofar as they are affected by the repair, alteration, change of occupancy, addition and relocation of existing buildings. This code shall apply to the repair, alteration, change of occupancy, addition and relocation of all existing buildings, regardless of occupancy, subject to the criteria of Sections 12.101.6.1 and 12.101.6.2.

12.101.020.4 California Mechanical Code. The California Mechanical Code shall apply to the installation, alteration, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings, and appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy related systems.

12.101.020.5 California Plumbing Code. The California Plumbing Code shall apply to the installation, alteration, repairs and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, where connected to a water or sewage system, gas system, and all aspects of medical gas system. The provision of the California Plumbing Code shall apply to private sewage disposal systems.

12.101.020.6 California Residential Code. The provisions of the California Residential Code for One- and Two-family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above-grade in height with a separate means of egress and their accessory structures not more than three stories above the grade plane in height.

Exception: The following shall be permitted to be constructed in accordance with this code where provided with a residential fire sprinkler system complying with IRC Sections R313:

1. Live/work units located in townhouses and complying with the requirements of Section 419 of the California Building Code.
2. Owner-occupied lodging houses with five or fewer guestrooms.
3. A care facility for five or fewer persons receiving custodial care within a dwelling unit.
4. A care facility for five or fewer persons receiving medical care within a dwelling unit.
5. A care facility for five or fewer persons receiving care within a dwelling unit.

12.101.020.7 International Swimming Pool and Spa Code. The International Swimming Pool and Spa Code shall apply to the construction, alteration, movement, renovation, replacement, repair and maintenance of aquatic recreation facilities, pools, and spas. The pools and spas covered by this code are either permanent or temporary, and shall be only those that are designed and manufactured to be connected to a circulation system and that are intended for swimming, bathing or wading.

12.101.020.7.1 Purpose. The purpose of this code is to establish minimum standards to provide a reasonable level of safety and protection of life, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location and maintenance or use of pools and spas.

12.101.030 Intent. The intent of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

It is not the purpose of this code to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

12.101.040 Referenced codes. Any law cited in this code, including in the adopted codes as amended, shall be considered part of the requirements of this code to the prescribed extent of each such reference.

CHAPTER 12.102 - APPLICABILITY

12.102.010 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where the requirements of this code conflict with requirements of any other part of the California Building Standards Code, Title 24, the most restrictive requirement shall prevail.

12.102.020 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

12.102.030 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

12.102.040 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

12.102.050 Partial invalidity. In the event that any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

12.102.060 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the California Existing Building Code or the California Fire Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

12.101.060.1 Buildings not previously occupied. A building or portion of a building that has not been previously occupied or used for its intended purpose in accordance with the laws in existence at the time of its completion shall comply with the provisions of the California Building Code or California Residential Code, as applicable, for new construction or with any current permit for such occupancy.

12.101.060.2 Buildings previously occupied. The legal occupancy of any building existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the California Fire Code, the California Existing Building Code, or the International Property Maintenance Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

CHAPTER 12.103 - DEPARTMENT OF BUILDING & SAFETY

12.103.010 Creation of enforcement agency. The Building Division is hereby created and established within the Community Development Department which shall be under the direction, control, and supervision of the chief building official.

12.103.020 Appointment. The building official shall be appointed by the city council upon recommendation of the city manager and shall serve at the pleasure of the council in the unclassified service of the city. The building official has such powers and shall perform such duties as are conferred upon him by the provisions of the California Code or as may be assigned by the city council.

12.103.030 Deputies and staff. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official.

CHAPTER 12.104 - DUTIES AND POWERS OF BUILDING OFFICIAL

12.104.010 General. The building official is hereby authorized and directed to enforce all the provisions of this code. For such purposes, the building official shall have the powers of a law enforcement officer, may prepare, sign and serve written citations pursuant to the provisions of Penal Code Section 836.5, and may otherwise enforce this code and related provisions in Title 1 of SRMC, pursuant to any applicable enforcement provisions therein, against all persons accused of violating the provisions of this code, related provisions in the SRMC, and any amendments to them. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

12.104.020 Applications and permits. The building official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

12.104.020.1 Determination of substantially improved or substantially damaged existing buildings and structures in flood hazard areas. For applications for reconstruction, rehabilitation, repair, alteration, addition or other improvement of existing buildings and structures located in a flood hazard area, the building official shall determine if the proposed work constitutes substantial improvement or repair of substantially damaged, and where required by this code, the building official shall require the building to meet the requirements of Section 1612.

12.104.030 Notices and orders. The building official shall issue all necessary notices or orders to ensure compliance with this code. No person shall remove or deface any notice or order posted by the building official, except as authorized by the building official.

12.104.040 Inspections. The building official shall make required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

12.104.050 Identification. The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

12.104.060 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry, including the warrant provisions of Section 1822.50 et. Seq. of the Code of Civil Procedure of the State of California.

12.104.070 Department records. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

12.104.080 Liability. The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge

of the duties required by this code or other pertinent law or ordinance, shall not thereby be civilly or criminally rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

12.104.080.1 Legal defense. Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

12.104.080.2 Duty. Any duty created by this code or based on this code runs to the public, and no private cause of action is created by a breach of such duty. No document, certificate, inspection or approval given pursuant to this code may be construed to be a representation or warranty of any kind, including without limitation a representation or warranty that a building or structure is complete, that it is in compliance with this code or any other law, that it was inspected, that it is safe or ready for occupancy or that it meets any particular degree of quality of workmanship. The amount and quality of inspection and other services provided is discretionary with the building official and may vary in response to the amount of staff, their work load, training and experience, funding and other pertinent factors affecting whether and how inspection is made or whether any hazard, deficiency or similar matter is observed.

12.104.090 Approved materials and equipment. Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

12.104.090.1 Used materials and equipment. Materials that are reused shall comply with the requirements of this code for new materials. Used equipment and devices shall not be reused unless approved by the building official.

12.104.100 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department.

12.104.100.1 Flood hazard areas. The Building Official shall not grant modifications to any provision required in flood hazard areas as established by CBC Section 1612.3 of this code unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 1612 inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

12.104.110 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not approved, the building official shall respond in writing, stating the reasons why the alternative was not approved. Alternative systems shall satisfy ASCE 7 Section 1.3, unless more restrictive requirements are established by this code for an equivalent system.

12.104.110.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

12.104.110.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

CHAPTER 12.105 - PERMITS

12.105.010 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

12.105.010.1 Emergency repairs. Where equipment replacements and repairs must be performed in an emergency, the permit application shall be submitted within the next working business day to the building official, which shall include an explanation and proof of the emergency.

12.105.010.2 Annual permit. Instead of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefore to any person, firm or corporation regularly employing one or more qualified trade persons in the building, structure or on the premises owned or operated by the applicant for the permit.

12.105.010.3 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

12.105.020 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required where exempted by law and for the following:

Building:

1. Nonhabitable one-story detached accessory structures on residentially zoned property or on a lot with an established principal residential use, used as tool and storage sheds, gazebos, playhouses, or similar uses, provided the floor area does not exceed 120 square feet (18.58 m²); and height does not exceed 15 feet (5 mm); and does not include electrical, mechanical, or plumbing; and meets required setbacks for a structure as defined in Title 14.
2. Residential fences not over 7 feet (2134 mm) high or masonry fenced walls not over 36 inches (914 mm) when outside the front yard or street yard and not used as swimming pools barriers. When in front yard or street yard must comply with requirements of Title 14.
3. Oil derricks.
4. Retaining walls or rockery walls that are not over 48 inches (1219 mm) in height measured from the bottom of the footing to the top of the wall. Walls must not support a surcharge or impound Class I, II or IIIA liquids.
5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2 to 1.
6. Patios, sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, without foundations, and not over any septic system, basement or story below, and not part of an accessible route or means of egress.
7. Painting, papering, flooring, carpeting, counter tops and similar finish work. Striping or restriping of parking lots shall require a permit.
8. Temporary (not to exceed 180 days) motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, with no associated electrical, plumbing, or mechanical and comply with Title 14.
11. Swings and other playground equipment accessory to detached one- and two-family dwellings.
12. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not project more than 24 inches (610 mm) into any setback and do not require additional support; Group R-3 and U occupancies only.
13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.
14. Roofing repair if the roof is less than 100 square feet (9.29 m²) or still under its one year warranty.
15. Replacement of doors when the opening, location, and casement remain the same, meets the adopted energy code requirements, meets the current safety glazing requirements, and has the same fire rating and closer requirements as the door being replaced.
16. Repair or replacement of garage doors when the opening size and location remain the same, no new electrical, meets the current safety glazing requirements, and installed per manufacturer's recommendations.
17. Decks not exceeding 200 square feet (18.58 m³) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a building, are not part of any path of egress and meets required setbacks as defined in Title 14.
18. Replacement of glazing or replacement of glazing in hazardous locations with tempered glazing.
19. Grading under 50 cubic yards (38.23 m³) pursuant to Title 14.

Electrical:

Repairs and maintenance:

1. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. Reinstallation of attachment plug receptacles, but not the outlets therefore.

3. Replacement of branch circuit over-current devices of the required capacity in the same location.
4. Repair or replacement of current carrying parts of any switch, contactor or control device.
5. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.
6. Repair or replacement of fixed motors, transformers or fixed approved appliances of the same type and rating in the same location.
7. Removal of electrical wire, coax or communication wire.
8. Replacement of light fixtures in single family and accessory structures.

Temporary uses:

1. Listed cord-and-plug connected temporary decorative lighting.
2. Listed temporary construction lighting or wiring.
3. Carnivals and circuses.
4. Installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.
5. Temporary wiring for experimental purposes in suitable experimental laboratories.

Electrical wiring, devices and appliances: Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.

Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

Gas:

1. Portable heating, cooking or clothes drying appliances.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.
8. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe: provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall

be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.
3. The repair or replacement of residential sinks, lavatories, or water closets and their associated valves and traps, provided such do not require the modification, replacement or rearrangement of the water, waste, or vent pipes or require an electrical connection.

12.105.020.1 Repairs. Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

12.105.020.2 Public service agencies. A permit shall not be required for installation, alteration, or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

12.105.030 Application for permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the building official for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made;
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work;
3. Indicate the use and occupancy for which the proposed work is intended;
4. Be accompanied by construction documents and other information as required in Chapter 12.107;
5. State the valuation of the proposed work;
6. Be signed by the applicant, or the applicant's authorized agent; and
7. Give such other data and information as required by the building official.

12.105.030.1 Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefore. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefore as soon as practicable.

12.105.030.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one extension of time for an additional period not exceeding 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

12.105.040 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction

documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

12.105.050 Expiration. All building permits for the construction of buildings issued by the building official under the provisions of this code and the SRMC shall expire and become invalid 180 days after the date of issuance. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. All other permits including permits issued for grading, fences, and utilities, shall expire and become invalid 180 days after the date of issuance.

All work authorized by a permit that has expired must stop and may only continue upon application for and approval of either a renewal of the expired permit or a new permit. Renewal of a permit is prohibited if the work authorized by a permit is not commenced and inspected within the permit period after issuance or if any permit is not renewed within the renewal grace period after expiration.

Exception: The building official may allow an invalid permit to be renewed only upon a determination by the building official that unforeseen and extraordinary circumstances are established by the applicant and the other provisions of this Section 12.105.5 are satisfied.

12.105.050.1 New permits. Any new permit issued for the same purpose will require a new application and payment of all permit fees as required by this code existing at the time of application for new permit. New permits shall be governed by this code and any other applicable policy, regulation or law, local, state or federal, existing at the time of application for new permit.

12.105.050.2 Renewals. Renewals of an expired permit must be applied for within the renewal grace period from the permit expiration date and all additional fees paid. A renewal may be granted in writing by the building official only if the building official is satisfied that justifiable cause exists for a renewal or a site inspection by the building official establishes that all work is within the scope and is authorized by the and the work is not complete. Renewals shall extend the time of the permit from the date of expiration of the original permit or the last renewal. The renewals shall have the same duration as the original permit.

Exceptions: If the building official is satisfied with proof from the applicant of his active military service that prevented timely completion of the authorized work, the building official may grant a one-time extension for a reasonable period of time not to exceed 2 years at no cost to the applicant. If the authorized work is not completed within this extension of time, a renewal of the original permit, if possible hereunder, or a new permit will be required pursuant to the provisions of this code.

If at the time of expiration of the permit or its renewal the authorized work is in the final inspection stage as defined in Chapter 12.109, the building official may grant a one time 90-day extension at no cost. If work under this extension is not completed within the 90 days, a renewal of the original permit, if possible hereunder, or a new permit will be required pursuant to the provisions of this code.

12.105.050.3 Renewal limit. Permits may be renewed 3 times. After the expiration of the third renewal, the applicant shall apply for a new permit.

12.105.050.4 Renewal Grace Period. Building permits shall have a grace period of not more than 12 months from the expiration date of the permit. All other permits including grading, fences, and utilities, shall have a grace period of not more than 3 months from the expiration date of the permit.

Temporary permits for structures and uses shall not have a grace period and any extension to the permit shall comply with Chapter 12.107.

12.105.060 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under the provisions of this code whenever this code or any other applicable policy, regulation or law, local, state or federal, is violated, or whenever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

12.105.070 Placement of permit. The building permit or copy shall be kept on the site of the work until the completion of the project. The "Notification of Building Permit Issuance" placard shall be prominently posted and displayed on the front of the building or structure where the building permit activity occurs and shall be clearly visible from the street or right-of-way and shall remain in place for the duration of construction until the final inspection is passed.

CHAPTER 12.106 – FLOOR AND ROOF DESIGN LOADS

12.106.010 Live loads posted. In commercial, institutional or industrial buildings, for each floor or portion thereof designed for loads exceeding 50 psf (2.40kN/m²), such design live loads shall be conspicuously posted by the owner or the owner's authorized agent in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such notices.

12.106.020 Issuance of certificate of occupancy. A certificate of occupancy required by Section 111 shall not be issued until the floor load signs, required by section 12.106.1 have been installed.

12.106.030 Restrictions on loading. It shall be unlawful to place, or cause or permit to be placed, on any floor or roof of a building, structure or portion thereof, a load greater than is permitted by this code.

CHAPTER 12.107 - SUBMITTAL DOCUMENTS

12.107.010 General. Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

12.107.020 Construction Documents. Construction documents shall be in accordance with Sections 12.107.020.1 through 12.107.020.8.

12.107.020.1 Information on construction documents. Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official.

12.107.020.2 Fire protection system shop drawings. Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9 of the IBC.

12.107.020.3 Means of egress. The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of this code. In other than occupancies in Groups R-2, R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

12.107.020.4 Exterior wall envelope. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings. The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system that was tested, where applicable, as well as the test procedure used.

12.107.020.5 Exterior balconies and elevated walking surfaces. Where balconies and other elevated walking surfaces are exposed to water from direct or blowing rain, snow, or irrigation, and the structural framing is protected by an impervious moisture barrier, the construction documents shall include details for all elements of the impervious moisture barrier system. The construction documents shall include manufacturer's installation instructions.

12.107.020.6 Site plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

12.107.020.6.1 Design flood elevations. Where design flood elevations are not specified, they shall be established in accordance with CBC Section 1612.3.1.

12.107.020.7 Structural information. The construction documents shall provide the information specified in CBC Section 1603.

12.107.020.8 Relocatable buildings. Construction documents for relocatable buildings shall comply with CBC Section 3112.

12.107.030 Examination of documents. The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

12.107.030.1 Approval of construction documents. When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

12.107.030.2 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been

heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

12.107.030.3 Phased approval. The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

12.107.030.4 Design professional in responsible charge. Where it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

Where structural observation is required, the statement of special inspections shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

12.107.030.5 Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and been found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the design and submittal documents have been approved by the building official.

12.107.040 Amended construction documents. Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

12.107.050 Retention of construction documents. One set of approved construction documents shall be retained by the building official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

CHAPTER 12.108 - TEMPORARY STRUCTURES AND USES

12.108.010 General. The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

12.108.020 Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure public health, safety and general welfare.

12.108.030 Temporary power. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the electrical code.

12.108.040 Termination of approval. The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure to be removed or use to be discontinued.

CHAPTER 12.109 - FEES

12.109.010 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment, renewal or an extension to a permit be released until the additional fee, if any, has been paid.

12.109.020 Schedule of permit fees. On buildings, structures, grading, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit or renewal shall be paid required, in accordance with the Master Fee Schedule Resolution as adopted by the San Rafael City Council.

12.109.030 Building permit valuations. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

12.109.040 Plan review fees. When submittal documents are required by this code a plan review fee shall be paid at the time of submittal. The review fee shall be a percentage of the building permit fees in accordance with the Master Fee Schedule Resolution as adopted by the San Rafael City Council.

12.109.050. Investigative fee. An investigation fee shall be collected in advance, whether or not a permit is then or subsequently issued, when any person who commences any work on a site, building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits further set forth Section 114 hereof.

12.109.060 Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

12.109.070 Refunds.

12.109.070.1 Refund of permit fees. The building official may authorize the refunding of not more than 80 percent of the permit fee when:

1. No work authorized by the building permit has been done under a permit issued in accordance with this code; and
2. A written application for a refund is submitted to the building official within 180 days after the date the permit was issued.

12.109.070.2 Refund of plan review fees. The building official may authorize the refunding of not more than 80 percent of the plan review fee when:

1. The application for a permit for which a plan review fee has been paid is withdrawn by the applicant before any plan reviewing is done; and
2. A written application for refund is submitted to the building official within 180 days after the date the application is withdrawn.

Exception: The building official shall refund 100 percent of the plan review fee paid pursuant to Section 12.109.040 if the building official requires the applicant to apply for a permit that is not required by this code.

12.109.070.3 Refund of master plan permit fees. The building official may authorize the refunding of not more than 80 percent of the permit fee for master plans when:

1. No work authorized by the building permit has been done under a permit issued in accordance with this code;
2. A written application for a refund is submitted to the building official within 180 days after the date the permit was issued; and
3. A new permit is paid for and issued for a different master plan

12.109.070.4 Refund of other fees. The building official shall refund 100 percent of any application fees tendered to the building official if no review is performed or if the application was received in error.

12.109.080 Witness Fee. Time spent in preparation for and/or in deposition or as an expert witness shall be reimbursed at the hourly rate in accordance with the Master Fee Schedule Resolution as adopted by the San Rafael City Council. The fee for the Building Official and managers within the department shall be twice the hourly rate as indicated.

12.109.090 Fees for Temporary or Partial Certificates of Occupancy. The fee for issuance of a temporary or partial certificate of use or occupancy in accordance with the Master Fee Schedule Resolution as adopted by the San Rafael City Council. If additional inspections are required prior to the issuance of the temporary or partial certificate, all costs of such inspections shall be paid by the applicant at the hourly rate in accordance with the Master Fee Schedule Resolution. If the temporary certificate of occupancy is not issued within 30 days from the application date, the application is void and a new application will be required.

CHAPTER 12.110 - INSPECTIONS

12.110.010 General. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain visible and able to be accessed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the owner or the owner's authorized agent to cause the work to remain visible and able to be accessed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

12.110.020 Preliminary inspection. Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

12.110.030 Required inspections. The building official, upon notification, shall make the inspections set forth in Sections 12.110.030.1 through 12.110.030.14.

12.110.030.1 Footing and foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

12.110.030.2 Concrete slab and under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

12.110.030.3 Building elevation. In flood hazard areas, the elevations of the lowest floor, including crawl space and basement, the next higher floor, the attached garage floor, the lowest machinery or equipment serving the building, the lowest adjacent grade and the highest adjacent grad shall be certified by an engineer or land surveyor on a FEMA Elevation Certification. The completed certifications shall be submitted to the City Engineer for review and approval prior to the final inspection.

12.110.030.4 Exterior shearwall inspection. To be made prior to the application of exterior siding or cover.

12.110.030.5 Frame inspection. Framing inspections shall be made after the roof is complete, all framing, lathing, fireblocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

12.110.030.5.1 Moisture content verification. Moisture content of framing members shall be verified in accordance with the California Green Building Standards Code, Chapter 4, Division 4.5.

12.110.030.6 Insulation inspection. To be made after the frame inspection has been approved.

12.110.030.7 Lath, gypsum board and gypsum panel product inspection. Lath, gypsum board and gypsum panel products inspections shall be made after lathing, gypsum board and gypsum board panel products, interior and exterior, is in place, but before any plastering is applied or gypsum board and gypsum panel product joints and fasteners are taped and finished.

12.110.030.8 Weather-exposed balcony and walking surface waterproofing. Where balconies or other elevated walking surfaces are exposed to water from direct or blowing rain, snow or irrigation, and the structural framing is protected by an impervious moisture barrier, all elements of the impervious moisture barrier system shall not be concealed until inspected and approved.

Exception: Where special inspections are provided in accordance with CBC Section 1705.1.1, Item 3.

12.110.030.9 Fire-resistant penetrations. Protection of joints and penetrations in fire-resistance-rated assemblies, smoke barriers, and smoke partitions shall not be concealed from view until inspected and approved.

12.110.030.10 Energy efficiency inspections. Inspections shall be made to determine compliance with adopted energy code and shall include, but not be limited to, inspections for: envelope insulation R and U values, fenestration U value, duct system R value, and HVAC and water-heating equipment efficiency.

12.110.030.11 Other inspections. In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the building official.

12.110.030.12 Special inspections. For special inspections, see Chapter 17.

12.110.030.13 Final inspection. The final inspection shall be made after all work required by the building permit is completed.

12.110.030.13.1 Flood hazard documentation. If located in a flood hazard area, documentation of the elevation of the lowest floor as required by CBC Section 1612.4 shall be submitted to the building official prior to final inspection.

12.110.030.14 Business license inspection. A business license inspection shall be required when there is a change in ownership, tenant or use of any building that requires the issuance of a business license by the City of San Rafael. This inspection will seek compliance with all applicable fire, health and safety laws and regulations but shall not be deemed to waive the requirements provided in this code and in the SRMC for change of use.

12.110.030.15 Additional inspections: When an inspection is scheduled by the applicant and the work or portion of the work is not complete or ready and requires additional inspections for approval, the building official may require the applicant to pay in advance for additional inspections before the work or inspections may continue. The fee for additional inspections is set forth in accordance with the Master Fee Schedule Resolution as adopted by the San Rafael City Council.

12.110.040 Inspection agencies. The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

12.110.050 Inspection requests. It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

12.110.060 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

CHAPTER 12.111 - CERTIFICATE OF OCCUPANCY

12.111.010 Use and occupancy. A building or structure shall not be used or occupied, and a change of occupancy of a building or structure or portion thereof shall not be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

Exception: Certificates of occupancy are not required for work exempt from permits in accordance with section 12.105.020 of this Code.

12.111.020 Certificate issued. After the building official inspects the building or structure and does not find violations of the provisions of this code or other laws that are enforced by the building official, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.

2. The address of the structure.
3. The name and address of the owner or the owner's authorized agent.
4. The name of the building official.
5. The edition of the code under which the permit was issued.
6. The use and occupancy, in accordance with the provisions of this code.
7. The type of construction as defined in this code.
8. The design occupant load, if applicable.
9. If an automatic sprinkler system is provided, whether the sprinkler system is required.
10. Any special stipulations and conditions of the building permit.

12.111.030 Temporary occupancy. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

12.111.040 Revocation. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

CHAPTER 12.112 - SERVICE UTILITIES

12.112.010 Connection of service utilities. A person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official.

12.112.020 Temporary connection. The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

12.112.030 Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval required by Section 12.112.010 or 12.112.020. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

CHAPTER 12.113 - BOARD OF APPEALS

12.113.010 General. There shall be and is hereby created a board of appeals to consider an order, decision or determination made by the building official for the purpose of correcting an error, omission or oversight relative to the application and interpretation of this code. The board shall be formed as needed. The request for appeal shall be filed in writing with the building department and be specific on issues to be reviewed.

12.113.020 Limitations on authority. The board of appeal shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code. Concerning the other provisions of the code, the board shall not consider any matter de novo, but shall simply re-examine the decisions of the building official to determine whether such decisions are supported by substantial evidence, are reasonable, are not arbitrary, and are within the intent and purpose of this code.

12.113.030 Qualifications. The board of appeal shall consist of three members who are qualified by experience and training to pass on matters pertaining to building construction in the particular discipline at

issue and are not employees of the jurisdiction. The board members shall be approved by the city council from a list of experts in the particular discipline, selected and approved by both parties. The board may adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to both parties.

Exception: Nothing contained in this section shall prevent the mayor or city council from appointing the mayor and city council as the board of appeals.

12.113.040 Limitations of time. The time within which a request for appeals must be made will be during the application process and active life of the permit.

12.113.050 Fee. A nonrefundable filing fee in accordance with the Master Fee Schedule Resolution must be paid upon filing a request for appeal.

CHAPTER 12.114 - VIOLATIONS

12.114.010 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, grade, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

12.114.020 Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure or land in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

12.114.030 Enforcement. If the notice of violation is not complied with promptly, the building official is authorized to institute or seek the institution of the appropriate measure or process to prosecute, restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or related provisions of the SRMC or of the order or direction made pursuant thereto. Such enforcement may include any combination of applicable enforcement actions authorized by this code and the SRMC, including without limitation prosecution as a misdemeanor. A separate offense may be charged for each day a violation is committed, continued, permitted or otherwise maintained.

12.114.030.1 Work commencing before permit issuance. Any person who commences any work on a site, building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to and pay an investigative fee in addition to the required permit fees, as well as be subject to any other applicable enforcement measures provided in this code. An investigation fee shall be collected in advance, whether or not a permit is then or subsequently issued. The investigation fee shall be three times the amount of the permit fee for that work and shall be in addition to the normal permit fees as specified in the Master Fee Schedule Resolution. The payment of such fee shall not exempt any person from compliance with all other provisions of this code and related provisions in the SRMC nor from any penalty prescribed by law. The building official may also require of any person working without a building permit to be responsible for the cost of third party inspection to insure that the project is completed in accordance with the applicable code and approved plans.

Exception: The building official may waive or reduce the investigative fee if the building official determines that a permit application has been pursued in a timely manner and in good faith, and it is in the best interest of the jurisdiction.

12.114.040 Violation penalties. Any person who violates a provision of this code or fails to comply with any provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, or repairs a building or structure in violation of the approved construction documents or directive of

the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

CHAPTER 12.115 - STOP WORK ORDER

12.115.010 Authority. Whenever the building official finds any work regulated by this code or related provisions of the SRMC being performed in a manner either contrary to the provisions of this code, related provisions of the SRMC or dangerous or unsafe, the building official is authorized to issue a stop work order.

12.115.020 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions, including any mitigation, under which the cited work will be permitted to resume.

12.115.030 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

CHAPTER 12.116 - UNSAFE STRUCTURES AND EQUIPMENT

12.116.010 Conditions. Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

12.116.020 Record. The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

12.116.030 Notice. If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

12.116.040 Method of service. Such notice shall be deemed properly served if a copy thereof is: delivered to the owner personally; sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

12.116.050 Restoration. Where the structure or equipment determined to be unsafe by the building official is permitted to be restored to a safe condition, to the extent that repairs, alterations or additions are made, or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the California Existing Building Code.

CHAPTER 12.200 - CALIFORNIA BUILDING CODE AMENDMENTS

12.200.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.200.020 Amendments. The 2019 California Building Code is amended or modified as follows:

Amend Section 202 to read as follows:

The definition of "Kitchen" is amended as follows:

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

The definition of "Substantial Remodel" is added to read as follows:

SUBSTANTIAL REMODEL. Substantial remodel shall mean the alteration of any structure which combined with any additions to the structure, performed within any three (3) year period, affects a floor area which exceeds fifty percent (50%) of the existing floor area of the structure. When any changes are made in the building, such as walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for purposes of applying this definition. This definition does not apply to the replacement and upgrading of residential roof coverings or exterior wall finishes.

Amend Section 903.2 is amended to read as follows:

903.2 Where Required. ~~Approved automatic fire sprinkler systems in new buildings and structures~~ shall be provided in the locations described in Sections 903.2.1 through 903.2.12 and in all of the following:

1. Newly constructed buildings or facilities, except detached Group U occupancies not more than one thousand (1,000) square feet in floor area and provided with exterior wall and opening protection as per Table 602 of the California Building Code.
2. Newly created, attached, second dwelling units which meet the definition of a substantial remodel.
3. All other existing buildings, fire sprinkler systems may be required by the fire chief in accordance with the following:
 - 3.1. All buildings where improvements occur during any three (3) year period which cumulatively meet the definition of a substantial remodel.
 - 3.2. All buildings, except R-3 occupancies, in excess of three thousand (3,000) square feet which have more than ten percent (10%) floor area added within any three (3) year period. Exceptions may be granted by the fire chief when alternate means of protection are installed as approved by the fire code official.
 - 3.3. A change in the use of a building that results in a higher fire or life safety hazard when the square footage of the area changing use is more than 50% of the square footage of the existing building.
 - 3.4. Where fire sprinklers are required by provisions of this code, they shall be extended throughout the building.
4. All public storage facilities. Exceptions may be granted by the fire chief when alternate means

of protection are installed as approved by the fire code official

5. All tunnels used for the transportation of people or any type of vehicle.

The requirements for fire sprinkler systems in this code section are not meant to disallow the provisions for area increase, height increase, or fire-resistive-rated substitution if otherwise allowed by this code.

Exception [Unchanged.]

Section 903.2.1 through 903.2.17. [Unchanged.]

Amend Section 903.2.18 by deleting the exception.

Section 903.2.19. [Unchanged.]

Amend Section 907.2.10.2.3 by adding the following sentence at the end of the paragraph:

Replacement of an existing smoke alarm which is hardwired, and/or interconnected shall be made with an alarm of the same functionality.

Amend Section 1015.2 by adding the following concluding sentence:

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

Add Section 1015.8.2 & 1015.8.3 to read as follows:

1015.8.2 Existing Hotels. The provisions of sections 1015.8 shall apply retroactively to all existing hotels.

1015.8.3 Clear area adjacent to hotel window opening. There shall be no furniture, fixed or moveable, placed within thirty-six inches (36") of any openable portion of a window. Hotels shall also provide notice to prospective guests of this requirement.

Amend Section 1207.4 (1) to read as follows:

1. The unit shall have a living room not less than ~~220~~ 150 square feet (~~20.4~~ 13.9 m²) of floor area. An additional 100 square feet (9.3 m²) of floor area shall be provided for each occupant of such unit in excess of two.

Amend Section 1505.1 by deleting the last sentence and the referenced Table 1505.1.

Exception [Unchanged]

Sections 1505.1.1 and 1505.1.2. [Unchanged]

Amend Section 1505.1.3 to read as follows:

1505.1.3 Roof coverings within all other areas. The entire roof covering of every existing structure, where more than 50% of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class ~~G-A~~.

Amend Section 1505.1.4 to read as follows:

1505.1.4 Roofing requirements in a Wildland-Urban Interface Fire Area. Roofing requirements" for structures located in a Wildland-Urban Interface Fire Area shall be a fire-retardant roof covering

that is least class A and shall also comply with Section 705A.

Add Section 1807.4 to read as follows:

1807.4 Wooden retaining walls. Wooden retaining walls may not be used to support any building surcharge or vehicular way. In addition, wooden retaining walls shall not be employed to retain soils above or below a building where failure of the wall may subject the building to damage.

Amend Section 3202.2.3 to read as follows:

3202.2.3 Awnings. The vertical clearance from the public right-of-way to the lowest part of any awning, including valances, shall be not less than ~~7 feet (2134 mm)~~ 8 feet (2439 mm).

CHAPTER 12.210 - CALIFORNIA ELECTRICAL CODE AMENDMENTS

12.210.010 No amendment. The 2019 California Electrical Code is not amended or modified.

CHAPTER 12.220 - CALIFORNIA ENERGY CODE AMENDMENTS

12.220.010 No amendment. The 2019 California Energy Code is not amended or modified.

CHAPTER 12.230 - CALIFORNIA EXISTING BUILDING CODE AMENDMENTS

12.230.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.230.020 Amendments. The 2019 California Existing Building Code is amended or modified as follows:

Add Section 406.2.1 & 406.2.2 to read as follows:

406.2.1 Existing Hotels. The provisions of sections 406.2 shall apply retroactively to all existing hotels.

406.2.2 Clear area adjacent to hotel window opening. There shall be no furniture, fixed or moveable, aced within thirty-six inches (36") of any openable portion of a window. Hotels shall also provide notice to prospective guests of this requirement.

CHAPTER 12.235 - CALIFORNIA GREEN BUILDING CONSTRUCTION STANDARDS CODE AMENDMENTS

12.235.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.235.020 Amendments. The 2019 California Green Building Construction Standards is amended or

modified as follows:

Delete Section 101.4

Amend Section 101 by adding the following:

101.4 Appendices. In addition to complying with the mandatory provisions of the California Green Building Standards Code, new buildings for which an application for a building permit is submitted on or after January 1, 2020, shall comply with Tier 1 measures of Appendix A4, or Tier 1 measures of Appendix A5, depending on occupancy type.

CHAPTER 12.240 - CALIFORNIA HISTORICAL BUILDING CODE AMENDMENTS

12.240.010 No amendment. The 2019 California Historical Building Code is not amended or modified.

CHAPTER 12.245 - CALIFORNIA MECHANICAL CODE AMENDMENTS

12.245.010 No amendment. The 2019 California Mechanical Code is not amended or modified.

CHAPTER 12.250 - CALIFORNIA PLUMBING CODE AMENDMENTS

12.250.010 No amendment. The 2019 California Plumbing Code is not amended or modified.

CHAPTER 12.255 - CALIFORNIA RESIDENTIAL CODE AMENDMENTS

12.255.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.255.020 Amendments. The 2019 California Residential Code is amended or modified as follows:

Amend Section R202 to read as follows:

The definition of "Kitchen" is amended as follows:

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

The definition of "Substantial Remodel" is added to read as follows:

SUBSTANTIAL REMODEL. Substantial remodel shall mean the alteration of any structure which combined with any additions to the structure, performed within any three (3) year period, affects a floor area which exceeds fifty percent (50%) of the existing floor area of the structure. When any changes are made in the building, such as walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for purposes of applying this definition. This definition does not apply to the replacement and upgrading of residential roof coverings or exterior wall finishes.

Delete exception to Section R313.1 and amend Section R313.1 to read as follows:

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in all newly constructed townhouses and in existing townhouses where alterations and/or additions to the existing structure, performed over any 3-year period, qualify as a "Substantial Remodel" as defined in this code. Any addition to a building with an existing fire sprinkler system shall have that system extended to the new portions) of the building irrespective of the size of the addition.

R313.1.1 [Unchanged]

Amend Section R313.2 to read as follows:

R313.2 One-and two-family dwellings automatic fire systems. An Automatic residential fire sprinkler system shall be installed in all newly constructed one-and two-family dwellings and in existing one-and two-family dwellings where alterations and/or additions to the existing structure, performed over any 3-year period, qualify as a "Substantial Remodel" as defined in this code. Any addition to a building with an existing fire sprinkler system shall have that system extended to the new portions) of the building irrespective of the size of the addition.

R313.2.1. [Unchanged]

Amend Section R313.3.1.2 by deleting exception #4.

Amend Section R314.7.2 by adding the following:

Smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that no longer function shall be replaced. Replacement of an existing smoke alarm which is hardwired, and/or interconnected shall be made with an alarm of the same functionality.

Amend Section R902.1.3 to read as follows:

R902.1.3 Roof coverings within all other areas. The entire roof covering of every existing structure, where more than 50% of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class G-A and shall also comply with Section R337.5.

Amend Section R902.1.4 to read as follows:

R902.1.4 Roofing requirements in a Wildland-Urban Interface Fire Area. Roofing requirements" for structures located in a Wildland-Urban Interface Fire Area shall be a fire-retardant roof covering that is least class A and shall also comply with Section R337.5.

CHAPTER 12.260 – INTERNATIONAL PROPERTY MAINTENANCE CODE AMENDMENTS

12.260.010 General. For purpose of this Chapter only:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.260.020 Amendments. The 2018 International Property Maintenance Code is amended or modified as follows:

Delete Section 101.1, 103, 104, 106, and 107

Amend Section 108.3 to read as follows:

108.3 Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with ~~Section 407.3~~ 1.08.060 of the San Rafael Municipal Code. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in ~~Section 407.2~~ 1.08.060 of the San Rafael Municipal Code.

Amend Section 109.2, 109.3 and 109.4 to read as follows:

109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official ~~shall~~ may order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

109.3 Closing streets. When necessary for public safety, the code official ~~shall~~ may temporarily close structures and close or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the code official ~~shall~~ may employ the necessary labor and materials to perform the required work as expeditiously as possible.

Delete Section 109.5 and 109.6.

Amend Section 110.1 to change "two years" to "one year" in the first sentence.

Amend Section 110.2 and 110.3 to read as follows:

110.2 Notices and orders. All notices and orders shall comply with ~~Section 407~~ Chapter 1.46 of San Rafael Municipal Code.

110.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official ~~shall~~ may cause the structure to be demolished and removed, either through the forces of the an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Delete Section 111 and 112.

Amend Section 202 to read as follows:

The definition for "Code Official" is added as follows:

CODE OFFICIAL. Where used in this code, the term code official shall mean the planning manager, code enforcement manager, or the building official of the City of San Rafael, and their designees.

Amend Section 302.4 to read as follows:

302.4 Weeds. Premises and exterior property shall be maintained free from weeds or plant growth in excess of 6 inches tall. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses,

annual plants and vegetation, other than trees or shrubs, provided however, this term shall not include cultivated flowers and gardens. [Rest of section to remain unchanged.]

Amend Section 304.14 to read as follows:

304.14 Insect Screens. ~~During the period from [DATE] to [Date] every~~ Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.
Exception [Unchanged.]

Amend Section 308.2.2 to add these words to the end of the sentence:

or securing the doors in an approved manner.

Amend Section 308.3.1 by adding the following:

Every person maintaining or using any solid waste can or receptacle shall keep the same clean and sanitary.

Amend Section 308.3.2 by adding the following:

Within all residential districts in the city, no person shall use, locate or maintain (store) any solid waste can, garbage container or other waste receptacle within the public right-of-way other than on the day of removal service. Such waste receptacles shall be stored out of public view on non-service dates, whenever practical, or stored nearest the main structure.

Amend Section 602.3 to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat ~~during the period from [DATE] to [DATE]~~ to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.
Exceptions [Unchanged.]

Amend Section 602.4 to read as follows:

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat ~~during the period from [DATE] to [DATE]~~ to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.
Exceptions [Unchanged.]

CHAPTER 12.265 – INTERNATIONAL SWIMMING POOL AND SPA CODE AMENDMENTS

12.265.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.265.020 Amendments. The 2018 International Swimming Pool and Spa Code is amended or modified as follows:

Amend Section 202 to add the following definition:

PRIVATE SWIMMING POOL means a swimming pool or pool located at and intended primarily for the use of the occupants of a single or two-family dwelling unit.

Amend Section 301 by adding the following:

301.2 Existing swimming pools. Any person who owns or is in possession of an existing private swimming pool that does not conform to the requirements of this section shall make the pool conform to the requirements of this section within ninety (90) days from its effective date.

Exceptions: The chief building official is hereby authorized to exempt any private swimming pool from the provisions of Health and Safety Code 115922:

1. If it is secured from unauthorized entry by a natural or artificial barrier that provides the same or a greater degree of protection than would an enclosure.

An application for exception shall be filed in writing with the chief building official. The application shall contain a brief statement evidencing that the applicant is entitled to the exception and such other information as the chief building official may prescribe.

Delete Section 302 and 305.

Amend Section 305 by adding the following:

305.1 General. Pool barriers and enclosure shall meet the requirements of the California Swimming Pool Safety Act. The text in CBC 3109.2 contains the statutory language that is required to be duplicated and published in California Code of Regulations, Title 24. As such the section numbers reflect those within the Health and Safety Code.

305.2 Enclosure required for private swimming pools. Every person who owns or is in possession of any land on which there is situated a private swimming pool shall secure the pool from unauthorized entry by an enclosure that meets all of the requirements of Health and Safety Code 115923. The enclosure shall be specifically designed to prevent unauthorized entry from adjacent private and/or public property. This enclosure shall be in addition to the "safety features" required by Health and Safety Code 115922.

CHAPTER 12.300 - ADDRESSING OF BUILDINGS AND PROPERTIES

12.300.010 General. Regulations regarding address numbers of residential and commercial buildings and properties.

12.300.020 Intent. The purpose of this regulation is to provide minimum standards under which the city can provide a logical and consistent system for addressing which is easily recognizable by emergency response personnel and others trying to locate an address. The regulations and standards prescribed in this section shall be followed for address assignment or reassignment.

12.300.030 Duty of owner or agent. Every property owner or agent thereof, shall apply for and receive from the building official an assigned address number for every residential, multi-residential, and every commercial building located within the City of San Rafael which does not have address numbers complying with the provisions this code.

12.300.040 Duty of the building official. It shall be the duty of the building official or his designee to decide on a number and assign addressing in conformance with this code and the recognized standards of the City. Whenever the building official has knowledge of any violation of this chapter, the building official may notify and direct the property owner to correct the violation within 30 days. If the owner cannot be

located, the agent or occupant of the premises where said violation occurs shall be notified. If after 30 days the complaint has not been corrected, the building official may act to enforce this chapter.

12.300.050 Standards. The recognized standards used to determine the location, method or configuration of the addressing used by City are the recommended address standards.

12.300.060 Unlawful use of numbers; size of figures. All buildings shall have the assigned address numbers posted. It shall be unlawful for any person, whether the owner or occupant of the building or any apartment therein, to place, maintain or allow to remain thereon, any number other than the one required by this section. The address number shall be posted in the location specified in this code. The required, posted numbers shall be Arabic numerals and be visible from the street.

1. Residential dwellings shall have numbers not less than 4 inches in height with a proportionate width.
2. All commercial buildings shall have numbers not less than 6 inches in height with a proportionate width. For multi-tenant buildings, assigned unit numbers 4 inches in height may be posted on the doors in lieu of the street number provided that the street address is posted in a location that is clearly visible and distinguishable from the unit numbers.
3. The address number shall be a lighted sign or shall be at a minimum constructed with a contrasting color and background or with a reflective surface. All numbers shall be made of substantial and permanent material and shall be so placed or fixed so as not to be easily effaced or removed.
4. The assigned address must be posted for all buildings or structures under construction.

12.300.070 Location. Residential address numerals shall be posted to the immediate left of the front door of the dwelling, unless the garage is the furthest projecting building element, then the numerals shall be posted to the immediate left of the garage door. When such location is not visible from the street or access roadway fronting such residential dwelling, the required numerals shall be posted on a sign at the driveway entrance on the road which it departs. The sign shall not be located within the road right-of-way and shall be mounted to a minimum 4x4-redwood post or equivalent, set to a height range of 42 inches to 60 inches.

Commercial address numerals shall be posted over the main entrance doors, as well as on the rear door of the business. For multi-tenant buildings, assigned unit numbers may be posted on the front doors in lieu of street address, provided that the street address numerals are posted in locations that are clearly visible and distinguishable from the unit numbers. When such location is not visible from the street or roadway fronting such commercial building, the required numerals shall be at a location and a size specified by the Public Works Department and the Fire Department.

12.300.080 Use of odd and even numbers. For streets running east and west, all buildings located on the north side shall be numbered with odd numbers and all buildings located on the south side shall be numbered with even numbers. For streets running north and south, all buildings located on the west side shall odd numbers and all buildings located on the east side shall be numbered with even numbers.

12.300.090 Allotment of numbers. The City's address system is based on the grid system outlined within recognized standards. The City shall have 1,000 addresses per mile, or 528 feet per hundred block and shall be in numerical sequence beginning from the baseline. Some neighborhood areas may have a baseline different than noted above and such baseline is isolated to that specific geographic area. When assigning the address numbers, the middle of a structure shall determine the address number or driveway at the discretion of the building official.

12.300.100 Retention of old numbers; limitation. Whenever any property owner or agent of any property owner has been notified to change the numbers of the building, the old numbers may be temporarily retained, in addition to the new numbers. In no case shall the old numbers be retained for a period longer than 60 days after the final notice to change has been mailed.

12.300.110 Additional numbering on curbs permissible. A person or agent thereof, owning any building otherwise in compliance with the above provisions of this chapter, may pursuant to this section, paint or cause to be painted upon the curb the address number of such building. The number shall be located on the outer (street) side of the city curb located in front of said building, and within the extended property lines. No other number or letter shall be used. The use of curb numbering authorized by this section is not required, nor shall it take the place of those requirements for numbering set forth above. All building numbers placed on curbs shall be of good quality black enamel paint, nearly centered upon a 16 inch background of good quality white outdoor reflective paint. The curb numbers themselves shall be 4 inches high and formed by use of standard stencil series "C". Whenever possible, when the property is serviced by one or more driveways, the curb numbers shall be placed not less than one foot and not more than three feet from the driveway edge nearest the main front entrance to the building. Curb numbers permitted by this section shall not be painted on any curb when such painting or numbering would conflict with any required restricted curb zones set forth by the Public Works Department, including the "blue," "red," "yellow," "green," "white," and "orange" zones.

Every person desirous of painting house numbers on curbs as a business venture or in conjunction with any business venture shall have obtained a city business license.

It is unlawful for any person, firm, partnership, corporation or other association to paint or cause to be painted any house number on a curb without first having obtained the permission of the owner or occupant of the property adjacent to the curb.

CHAPTER 12.310 - APARTMENTS AND HOTELS - PERIODIC HOUSING INSPECTION PROGRAM AND CARETAKER REQUIREMENTS

12.310.010 Declaration of purpose. The council finds that the establishment of a periodic housing inspection program for apartments and hotels, and the specification of caretaker requirements for apartments, is necessary to protect the public health, safety and welfare, by ensuring the proper maintenance of such housing, by identifying and requiring correction of substandard housing conditions in such housing, and by preventing conditions of deterioration and blight in such housing that could adversely affect economic conditions and the quality of life in the city.

12.310.020 Definitions. The following words and phrases whenever used in this chapter shall be construed as defined in this section:

1. "Apartment" means any building or buildings, located on one parcel of property, containing three (3) or more rental dwelling units as defined in Section 14.03.030 of this code.
2. "Hotel" means any building or buildings, located on one parcel of property, containing six (6) or more guest rooms, intended or designed to be used, or that are used, rented or hired out to be occupied, or that are occupied for sleeping purposes by guests.
3. "Guest" is any person hiring or occupying a room for living or sleeping purposes.
4. "Guest room" means any room or rooms used or intended to be used by a guest for sleeping purposes.
5. "Occupant" means a person occupying a dwelling unit in an apartment or a guest occupying a guest room in a hotel.
6. "Owner" means the record owner of the property on which an apartment or hotel is located, as shown on the official records of the county assessor for the county of Marin, or the person or persons who own the business operating the hotel or apartment if different than the record owner of the property.

Words and phrases used in this chapter, but not specifically defined herein, shall have the meanings stated elsewhere in this code or in the adopted codes. Where not defined in this chapter or this code, words and phrases used in this chapter shall have the meaning generally prescribed by dictionary definition.

12.310.030 Periodic housing inspections. Every owner of an apartment or hotel located within the city of San Rafael shall permit the city's periodic inspection of the apartment and hotel, and the property on which such apartment or hotel is located, following notice from the city. The community development director, or his or her designee, shall cause each apartment and hotel to be inspected by the city's code enforcement officials once every five (5) years, or more frequently as needed, to ensure compliance with all applicable city ordinances or other laws relating to such housing, including the substandard housing provisions of this code.

12.310.040 Scope of chapter. This chapter shall not apply to:

1. A dwelling unit occupied by the record owner of the property on which the dwelling unit is located, as shown on the official records of the county assessor for the county of Marin;
2. A dwelling unit in a residential condominium as defined in San Rafael Municipal Code Section 15.50.020(b);
3. Housing accommodations in any hospital; state-licensed community care facilities; housing accommodations in any convent, monastery, or other facility occupied exclusively by members of a religious order; extended medical care facilities; asylum; on-campus fraternity or sorority houses; or on-campus housing accommodations owned, operated or managed by an institution of higher education, a high school, or an elementary school for occupancy by students;
4. Housing accommodations which a government unit, agency or authority owns, operates or manages, or which are specifically exempted from municipal regulation by state or federal law or administrative regulation. This exception shall not apply once the governmental ownership, operation, or management regulation is discontinued;
5. Mobile homes, or mobile home parks, or recreation vehicles, or recreational vehicle parks as defined in California Civil Code and California Health and Safety Code.;
6. Housing accommodations in buildings that have been vacated and secured against entry to the satisfaction of the city.

12.310.050 Complaint-based inspections. Nothing contained herein shall prevent or restrict the authority of the city's code enforcement officials to inspect any apartment or hotel, or the premises thereof, in response to a citizen complaint alleging code violations or other violations of law at such an apartment or hotel, and to pursue all code enforcement remedies permissible under this code or other laws following such a complaint-based inspection of an apartment or hotel.

12.310.060 Notices. The community development director, or his or her designee, shall give a minimum of five (5) business days advance written notice of the date and time of the periodic inspection to the owner of the apartment or hotel and to the occupants thereof. Such notice shall provide the address and phone number where additional information concerning the inspection may be obtained. Notice to the owner of the apartment or hotel shall be mailed by first class mail to the owner's last known address as it appears in the records of the county assessor. Notice shall be given to the occupants of the apartment or hotel by posting an official notice of such inspection in a public area on the premises of such apartment or hotel.

12.310.070 Right of entry. Upon presentation of proper credentials, the city's code enforcement officials, after having obtained the consent of the owner of the apartment or hotel, or of the occupant, may enter the apartment or hotel at reasonable times during daylight hours to perform the inspection. If consent for such an inspection is refused or cannot be obtained, the city's code enforcement officials are authorized to obtain an inspection warrant to conduct such an inspection pursuant to Code of Civil Procedure Sections 1822.50 et seq.

12.310.080 Violations. If an inspection of an apartment or hotel, or the premises thereof, conducted pursuant to this chapter reveals the existence of any violations of applicable city ordinances or other laws relating to such housing, including the substandard housing provisions, the city's code enforcement officials may seek to remedy such violations as permitted by law, including the provisions of Chapters 1.42, 1.44 or 1.46 of this code.

12.310.090 Certificate of compliance. Following completion of an inspection of an apartment or hotel and correction of any violations of applicable city ordinances or other laws related to such housing, the city shall issue to the owner a certificate of compliance indicating satisfaction of the provisions of this chapter as of the date of such certificate.

12.310.100 Inspection fee. The city may collect from any owner of an apartment or hotel, for which the owner is receiving compensation from the occupants, an annual housing inspection fee sufficient to cover the city's administrative costs and expenses for the periodic housing inspection program provided in this chapter. The annual housing inspection fees shall be established by resolution adopted by the city council pursuant to the provisions of Chapter 3.34 of this code. The city may collect the annual housing inspection fees by billing the owners directly for the amount due or by collecting the amount due from the owners as part of their property tax bills issued by the county tax collector pursuant to an agreement between the city and the county of Marin.

12.310.110 Failure to pay inspection fee. If the owner of an apartment or hotel fails to pay the annual housing inspection fees as provided hereunder, the city may recover the unpaid fees, plus accrued interest at the maximum rate permitted by law, from the owner in a civil action in which the city may be entitled to recover its reasonable attorney's fees. Alternatively, the city may record a lien for any unpaid annual housing inspection fees against the property to which the fees relate in the manner provided in Section 12.310.120.

12.310.120 Housing inspection fee lien. Prior to recording a lien for unpaid annual housing inspection fees against a property, the community development director, or his or her designee, shall prepare and file with the city clerk a report identifying the property, the owner, and the amount of a proposed housing inspection fee lien to cover such unpaid fees.

The city clerk shall fix a time, date and place of hearing said report and any protests or objections thereto by the city council and shall cause written notice of such hearing to be served on the owner not less than ten (10) days prior to the date of such hearing. Notice shall be given by regular first-class mail addressed to the owner at the last known address as shown on the records of the county assessor for the county of Marin.

After conducting the hearing, the city council shall adopt a resolution confirming, discharging, or modifying the amount of the proposed housing inspection fee lien.

The city clerk shall cause to be recorded in the county recorder's office a notice of housing inspection fee lien to which the city council's supporting resolution shall be attached. Such notice shall specify the amount of the lien, the name of the city of San Rafael on whose behalf the lien is imposed, the street address, legal description, the assessor's parcel number of subject property and name and address of the owner as shown on the records of the county assessor for the county of Marin. Upon recordation of such notice of housing inspection fee lien, it shall attach as a lien against the subject property and shall have the same effect and priority as recordation of an abstract of judgment.

Upon receiving a report from the director of management services that payment in full has been received by the city of the amount specified in the notice of housing inspection fee lien, the city clerk shall record a notice of satisfaction of the inspection fee lien with the county recorder. Recordation of such notice of satisfaction shall cancel the city's lien against the property.

12.310.130 Caretaker requirements for apartments. Regardless of the number of dwelling units in an apartment, the owner shall post in a conspicuous public place on the premises of the apartment a notice containing the name, address and telephone number of the resident caretaker or resident owner who is responsible for management of the apartment, or of the nonresident owner or nonresident owner's agent who is responsible for management of the apartment.

In any apartment with sixteen (16) or more dwelling units, a caretaker employed by the owner shall reside upon the apartment premises and shall be responsible for management of the apartment, unless the owner

resides upon the premises and has assumed such management responsibility. Alternatively, in any apartment with sixteen (16) or more dwelling units, there shall be a designated caretaker's office which shall be staffed during the hours of eight a.m. (8:00 a.m.) to five p.m. (5:00 p.m.) by the owner or a caretaker employed by the owner and responsible for management of the apartment during such hours, and there shall be a posted telephone number for the owner or the owner's agent, to which a telephone complaint may be made during all other hours, a response to which shall be made within a reasonable time period.

CHAPTER 12.315 - EXPEDITED PERMITTING PROCESS FOR ELECTRIC VEHICLE CHARGING STATIONS

12.315.010 Purpose. The purpose of this section is to promote and encourage the use of electric vehicles by creating an expedited, streamlined permitting process for electric vehicle charging stations while promoting public health and safety and preventing specific adverse impacts due to the installation and use of such charging stations. This chapter implements California Government Code Section 65850.7.

12.315.20 Definitions. For purposes of this section, the following definitions shall apply:

1. "Electric vehicle charging station" or "charging station" means any level of electric vehicle supply equipment station that is designed and built and installed in compliance with Article 625 and other general requirements of the California Electrical Code in effect at the time of installation and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.
2. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or condition as they existed on the date the application was deemed complete.
3. "Electronic submittal" means the utilization of one or more of the following: electronic mail or email, the internet, or facsimile.
4. A "feasible method to satisfactorily mitigate or avoid the specific adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed on an application for a permit.

12.315.030 Expedited permit process. The building official shall develop, maintain and administer an application checklist of all requirements for which electric vehicle charging stations shall comply in order to be eligible for expedited review. The application checklist shall be published and made available on the city website. The checklist shall include information on how and where to file an application including instructions for electronic submittal, necessary worksheet, and an application form.

12.315.040 Permit application processing. The city building division shall make every attempt to review and approve for permit issuance all applications for electric vehicle charging stations in an expedited fashion when completed applications are received which meet all the requirements of the application checklist, as follows:

1. The city shall administratively approve an application to install an electric vehicle charging station through the issuance of a building permit or similar nondiscretionary permit.
2. For outdoor electric vehicle charging stations that are not attached to a building, zoning review and clearance from the planning division shall be required prior to the issuance of a building permit or similar nondiscretionary permit. Single-family residences are exempt from this zoning review and clearance.
3. Review of the application to install an electric vehicle charging station shall be limited to the building official's review of whether the application meets all health and safety requirements of local, state, federal law, and the local utility authority. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the electric vehicle charging station will not have a specific, adverse impact upon the public health or safety.
4. Upon city confirmation that the application and supporting documents are complete and meet the requirements of the federal, state and local codes, the city shall approve the application and issue

- all required permits or authorizations.
5. In the event the application and supporting documents are incomplete, the city shall issue a written correction notice to the applicant detailing all deficiencies in the application and list any additional information required to be eligible for expedited permit issuance.
 6. In the event the building official, in consultation with the community development director, makes a finding, based on substantial evidence, that the electric vehicle charging station could have a specific, adverse impact upon the public health or safety, the city may require the applicant to apply for a use permit, which shall be subject to the following:
 - a. An application for a use permit shall be filed and processed pursuant to Title 14 (zoning) of this Code. The city zoning administrator shall conduct the required public hearing and take action on the use permit application.
 - b. The zoning administrator may not deny an application for a use permit to install an electric vehicle charging station unless it makes written findings based upon substantial evidence in the record, that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.
 - c. Any conditions imposed on a use permit application shall be crafted to mitigate the specific, adverse impact upon the public health or safety at the lowest cost possible.
 - d. The zoning administrator's decision on the use permit may be appealed to the planning commission pursuant to the time limits and processing provisions set forth in Title 14.

12.315.050 Fees. Fees for permits subject to this application process shall be as set forth in the master fee schedule resolution of the city council, as amended from time to time.

CHAPTER 12.320 - EXPEDITED PERMIT PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

12.320.010 Purpose. The purpose of this chapter is to implement an expedited, streamlined solar permitting process that complies with the Solar Rights Act and California Assembly Bill 2188 (Chapter 521, Statutes 2014) in order to achieve timely and cost-effective installations of small residential rooftop solar energy systems. The provisions herein encourage the use of solar systems by removing unreasonable barriers and minimizing costs to property owners and the City, expand the ability of property owners to install solar energy systems and allow the City to achieve these goals while continuing to protect the public health and safety.

12.320.020 Definitions. As used for interpretation in this chapter, unless a different meaning is apparent from the context or specified elsewhere in the code, the following terms shall have the meanings set forth below:

"Solar energy system" means either of the following:

1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
2. Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

"Small residential rooftop solar energy system" is one that meets all of the following:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;
2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City, and all state and City health and safety standards;

3. A solar energy system that is installed on a single family dwelling or duplex;
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the City's zoning ordinance.

"Electronic submittal" means the utilization of one or more of the following:

1. Email;
2. The internet (when that functionality becomes available); or
3. Facsimile.

"Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

"Common interest development" means any of the following, as defined in sections 4000 through 4190, inclusive, of the California Civil Code, or successor statutes:

1. A community apartment project.
2. A condominium project.
3. A planned development.
4. A stock cooperative.

"Reasonable restrictions" on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

"Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance" means:

1. For water heater systems or solar swimming pool heating systems: an amount exceeding ten percent (10%) of the cost of the system, but in no case more than 1,000 dollars, or decreasing the efficiency of the solar energy system by an amount exceeding ten percent (10%), as originally specified and proposed.
2. For Photovoltaic Systems: an amount not to exceed 1,000 dollars over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding ten percent (10%) as originally specified and proposed.

"Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

12.320.030 Applicability. This chapter applies to the permitting of all small residential rooftop solar energy systems in the City of San Rafael. Small residential rooftop solar energy systems legally established or permitted prior to October 21, 2015 are not subject to the requirements of this Chapter unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

12.320.040 Solar energy system requirements. All solar energy systems shall meet the following requirements:

1. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the State and the City and local fire department.
2. Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Codes.
3. Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories

and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

12.320.050 Duties. Duties of Community Development Department and building official are as follows:

1. All documents required for the submission of an expedited solar energy system application shall be made available for public review on the City's website.
2. Electronic submittal of the required permit application and documents by email (and the Internet when that technology becomes available) shall be made available to all small residential rooftop solar energy system permit applicants.
3. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.
4. The City's building division shall adopt and maintain standard plans and checklists of all requirements for which all small residential rooftop solar energy systems shall comply to be eligible for expedited review. The standard plans and checklist of requirements shall be posted and made available for public review on the City's website.
5. The small residential rooftop solar system permit process, standard plans, and checklists shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the *California Solar Permitting Guidebook adopted* by the Governor's Office of Planning and Research.
6. All fees prescribed for the permitting of small residential rooftop solar energy system must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951, and successor statutes.

12.320.060 Permit review and inspection requirements. Permit review and inspection requirements are as follows:

1. Upon receipt of a complete application that meets the requirements of the approved checklist and standard plan, the building official or his designee shall issue a building permit or other nondiscretionary permit the same day or the next day, for an application submitted over-the-counter, or within three (3) business days for applications that have been filed electronically.
2. Review of the application shall be limited to review by the building official or his designee to determine if the application: 1) meets all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City, and all state and City health and safety standards; and 2) contains all information requested in the applicable standard plan and checklist.
3. If an application is deemed incomplete by the building official, a written correction notice shall be sent in a timely manner to the applicant detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance upon resubmission of the application.
4. The building official may require an applicant to apply for an administrative use permit if he/she finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the City Planning Commission.
5. A use permit and/or an environmental and design review may be required for properties on the City's list of historic resources as determined by the Community Development Director.
6. If a use permit is required, the Community Development Director or his/her designee may deny an application for the use permit if he/she makes written findings, based upon substantive evidence in the record that: 1) the proposed installation would have a specific, adverse impact upon public health or safety; and 2) there is no feasible method to satisfactorily mitigate or avoid the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. The Community Development Director's decisions may be appealed to the City Planning Commission.
7. Any condition imposed on a use permit or an environmental and design review permit application shall be crafted to mitigate the specific, adverse impact upon health and safety at the lowest possible cost to the applicant.
8. For purposes of this chapter, a "feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation

successfully-imposed by the City on another similarly-situated solar energy application. The City shall use its best efforts to ensure that the selected method, condition, or mitigation that does not significantly increase the cost of the system or decrease its efficiency or specified performance as defined in this chapter.

9. The City shall not condition approval of an application on the approval of an association, as defined in 'Section 4080 of the Civil Code.
10. Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review.
11. The inspection shall be done in a timely manner and should include consolidated inspections. An inspection will be scheduled within one business day of a request and the applicant shall be provided with a four-hour inspection window.
12. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this Chapter.

CHAPTER 12.325 - MOVING AND RELOCATION OF BUILDINGS OR STRUCTURES

12.325.010 Purpose and scope. The purpose and scope of this chapter is to provide minimum standards to safeguard life, health, property and public welfare by regulating the moving and relocation of buildings or structures within the city.

12.325.020 Permit required. It is unlawful for any person, firm or corporation to move or cause to be moved, any building or structure that exceeds eight feet (87) in width, twenty-five feet (257) in length and fifteen feet (157) in height when loaded on moving dollies, into, out of, through or within the city without first having obtained a house mover's permit from the building official. A house moving permit shall not be issued until a relocation permit is obtained from the building official unless the structure is being moved from a location outside the city to a location outside the city.

12.325.030 Application for house mover's permit. Application for house mover's permit shall be made upon forms furnished by the building department and shall contain the following information:

1. Applicant's name, address and phone number;
2. That the applicant is a holder of a valid state house moving license;
3. That the applicant is a holder of a valid city business license;
4. That the applicant has on file with said city a bond as required by Section 12.325.050;
5. That the applicant has on file with the city a certificate of insurance as required by Section 12.325.060;
6. That the route over which the building is to be moved is specified;
7. That the written approval be obtained from the superintendent of streets, fire chief, police chief and utility companies of the route over which the building is to be moved;
8. The relocation permit number;
9. Other information which the superintendent of streets or the building official may require.

12.325.040 Fee for house mover's permit. Every person to whom a permit is issued shall pay to the building official, a permit fee in accordance with the Master Fee Schedule Resolution as adopted by the San Rafael City Council.

In addition, the permittee shall deposit with the Department of Public Works, the sum in accordance with the Master Fee Schedule Resolution plus any additional sum as required to cover the expense to the city for use of city personnel and/or removal and replacement of and repairs to any city property or equipment belonging to the city, occasioned by the moving of such building or structure.

12.325.050 Bond required. Before a house mover's permit may be issued hereunder, the house mover shall have filed with the city clerk a bond approved by the city attorney in favor of the city in the sum of one thousand dollars, executed by a responsible surety company conditioned that the principal will strictly comply with all requirements of this chapter and any ordinance hereafter in effect regulating the moving of

buildings or structures in said city; that the principal sum will pay for any and all damages to any fence, tree, pavement, street or sidewalk or any other property belonging to the city resulting from the moving of any house or structure by him, that the principal sum shall be forfeited to the city if the permittee fails to comply with all conditions and regulations of the granting of such permit by the building official and that the principal will indemnify and keep harmless said city against any and all damages, judgments, costs and expense which may in any wise accrue against the city in consequence of the granting to him or exercise by him of any permit hereunder; which bond shall operate as a continuing bond for the purpose of this chapter for a term of two years from and after the date thereof.

12.325.060 Insurance required. No permit to move a building authorized by the building official shall be issued until the permittee has filed with the city clerk a policy of public liability and property damage, or approved certificate thereof, issued by a responsible insurance company authorized to do business in the state. Said policy shall provide liability insurance in an amount of at least two hundred fifty thousand dollars each person and seven hundred fifty thousand dollars each accident, and property damage insurance in an amount of at least one hundred thousand dollars per accident, and insure the permittee and shall insure to the benefit of any and all person suffering loss or damage either to persons or property by reason of wrongful or negligent acts in moving the building. Said policy shall also contain a clause or special endorsement indemnifying and saving harmless the city against any loss, damage, costs and expenses which may in any wise accrue against said city in consequence of the granting of the permit for moving any building or structure.

12.325.070 Obstructing streets. No building or structure in process of moving shall be permitted to remain in anyone location or any public street or way or projecting over a public sidewalk, street or way, for a period longer than two hours except by written permission first obtained from the superintendent of streets, fire chief and police chief, and no such building or structure shall be permitted to obstruct traffic on any railroad for a longer time than is necessary and the railroad company shall be notified at least twenty-four hours in advance by the house mover of the intention to move any building or structure across any said railroad.

No building or structure when removed from its foundation shall be permitted to remain at its original site or transitional site for a period longer than forty-eight hours, without written approval from the building official.

12.325.080 Safety requirement. The moving of said structure or building shall be during the hours specified by the chief of police. During the period from a half hour after sunset to a half hour before sunrise, light lanterns shall be hung at least every five feet along each end or side of any building or structure while in a public street or way.

At all times while any building or structure is in a public street or way, the house mover shall maintain "street closed" warning barriers at both ends of the block, and during the period from a half hour after sunset to a half hour before sunrise, lighted lanterns shall be maintained not more than five feet apart on such barriers, but not less than three in all on each barrier. In lieu of the barriers the house mover may, with the approval of the chief of police, employ the use of emergency police vehicles. The fee for the use of such vehicles shall be as determined by the chief of police. The house mover shall keep the fire department advised at all times of the location of any building or structure on any public street or way.

12.325.090 Wires, cables, guys and poles. If the moving of any building hereunder requires any interference with any fire alarm, communication, or public utility structure, the applicant shall notify the public utility involved of the tentative time of such moving, the route of such moving, and the estimated loaded height of the building and moving equipment. Applicant shall bear the cost of any measures required to protect said structures from destruction or damage due to the moving of any building hereunder, and shall indemnify such public utility against any and all damages or claims of whatever kind or nature, direct or consequential, caused directly or indirectly by the relocation of any building hereunder or by any measures required to protect such structures. Applicant shall furnish the public utility involved with an advance cash deposit in the amount of the estimated cost of protecting such structures, subject to adjustment upon completion of moving to reflect the actual cost of such protective measures. No permit hereunder shall be issued by the building official unless applicant furnished satisfactory proof that any requirements of the public utilities have been fulfilled.

12.325.100 Relocation permit required. It is unlawful for any person, firm or corporation to move any structures from or onto any lot, piece or parcel of land located within the city until a relocation permit has been obtained as provided in this chapter.

12.325.110 Application for relocation permit. Every application for a relocation permit shall be:

1. Made in writing upon a form furnished by the building official and shall set forth such information as may reasonably be required,
2. Fees: each application shall be accompanied by a filing fee in accordance with the Master Fee Schedule Resolution.

12.325.120 Action on application. No permit shall be issued to relocate any building or structure within the city, which is so constructed or in such condition as to be dangerous or which is infested with pests or unsanitary; or which, if it be a dwelling for inhabitation, is unfit for human habitation; or which is so dilapidated, defective, unsightly or in such a condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable harm to or be materially detrimental to the property or improvements in the district within a radius of one thousand feet from the proposed site, or if the structure is of a type prohibited at the proposed site, by any fire district ordinance, or by any other law or ordinance; provided, however, that if the condition of the building or structure, in the judgment of the building official, admits of practicable and effective repair, the permit may be issued upon condition as hereinafter provided. If the unlawful, dangerous or defective condition of the building or structure proposed to be relocated is such that remedy or correction cannot practically and effectively be made, the permit shall be denied.

The building office shall, in granting any relocation permit, consider among other conditions the following:

1. Conformance to the zoning, building, housing, electrical, plumbing and heating codes of the city. The building official shall determine what repairs, alterations, or remodeling will be required to conform to all the requirements of the aforementioned codes;
2. That public improvements, such as concrete, curb and gutters, sidewalks, retaining walls, drainage, driveways and street trees are required to conform to city codes, ordinances and regulations;
3. That the structure when completed and in place will have a finished appearance and be so constructed as to not unreasonably depreciate other properties in the vicinity.

Where the building or structure is to be moved outside the city limits, the building official shall require the removal of foundations, walls, walks, debris, or other materials or structures remaining on the premises after the removal of the building. The repair of sidewalks, curbs and gutters, the removal of abandoned driveways and approaches, the filling in of basements, trenches and other excavations, or other work to return the premises to a state that will not be detrimental nor injurious to the public or either in the district as herein limited.

12.325.130 Relocation permit bond required. No relocation permit shall be issued unless the applicant shall first post with the city clerk of the city a bond executed by the owner of the premises where the building or structure is to be removed from the city or the owner of the premises from which the building or structure is to be moved, as principal and by a surety company authorized to do business in this state as surety. The bond, which shall be in form joint and several and shall name the city as obligee and shall be in an amount equal to the cost, plus twenty-five percent of the work required to be done in order to comply with all the conditions of such relocation permit, as estimated by the building official. In lieu of a surety bond, the applicant may post a bond executed by the said owner, as principal, and which is secured by a deposit of cash in the amount named above and conditioned as required in the case of a surety bond, such a bond as so secured is hereinafter called a "cash bond" for the purpose of this section.

12.325.130.1 Conditions of Relocation Permit Bond. Every bond posted pursuant to this section shall be conditioned as follows:

1. That each and all of the terms and conditions of relocation permit shall be complied with to the satisfaction of the building official;
2. That all of the work required to be done pursuant to the condition of the relocation permit shall be fully performed and completed within the time limit specified in the relocation permit; or, if no time limit is specified, within ninety days after the date of the issuance by the building official of the housemover's permit elsewhere in this chapter provided for. The time limit herein specified, or the time limit specified in any permit, may be extended for good and sufficient cause by the building official. No such extension of time shall be valid unless written and no such extension shall release any surety upon any bond.

12.325.130.2 Default in Performance of Conditions Notice to Be Given. Whenever the building official finds that a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the building official to be reasonably necessary for the completion of such work and shall be served upon the principal by certified mail, return receipt requested.

After receipt of such notice the surety or principal-must, within the time specified, either cause the required work to be performed or failing therein, must pay over to the building department the estimated cost of doing the work, as set forth in the notice. Upon receipt of such moneys the building department may proceed by such mode as it deems convenient to cause the required work to be performed and completed but no liability shall be incurred therein other than for the expenditure of the said sum in hand therefor.

12.325.130.3 Cash Bond Manner of Enforcement. If a cash bond has been posted, notice of default as provided above shall be given to the principal and if compliance is not had within the time specified, the building department may proceed without further notice of proceedings whatever, to use the cash deposit to cause the required work to be done, by contractor or otherwise in the discretion of the department. The balance, if any of such cash deposit shall, upon the completion of the work be returned to the depositor or to his successors or assigns.

12.325.130.4 Period of Termination of Bond. The term of each bond posted pursuant to this section shall begin upon the date of the posting thereof and shall end upon the completion, to the satisfaction of the building official of the performance of all the terms and conditions of the relocation permit. Such completion shall be evidenced by a statement thereof, signed by the building official, a copy of which will be sent to any surety or principal upon request. When a cash bond has been posted, the cash shall be returned to the depositor, or to his successors or assigns, upon the termination of the bond, except any portion thereof that may have been used or deducted as elsewhere in this section provided.

12.325.130.5 Entry Upon Premises. The building official or other department of the city, the surety and the duly authorized representatives of either shall have access to the premises described in the relocation permit for the purpose of inspecting the progress of the work. In the event of any default in the performance of any term or condition of the relocation permit, the surety, or any person employed or engaged on its behalf, the building department, or any person employed or engaged on its behalf shall have the right to go upon the premises to complete the required work or to remove or demolish the building or structure. It is unlawful for the owner, or his representatives, successors or assigns, or any other person to interfere with or obstruct the ingress or egress to or from any such premises of any authorized representative or agent of any surety, or the city engaged in the work of completing, demolishing or removing any building or structure for which a relocation permit has been issued, after a default has occurred in .the performance of the terms or conditions thereof.

12.325.140 Appeals. Any applicant for a house moving permit or for a relocation permit or any person aggrieved by any decision of the building official, may appeal such decision to the city council by filing with the city clerk a written notice of appeal within ten days of such decision. The appeal shall state the grounds upon which it is made and the particular decision from which the appeal is to be made. At the next regular

meeting following the filing of notice of appeal the city council shall set a date for a public hearing and said public hearing shall be held not more than forty-five days thereafter. The decision of the city council shall be rendered within thirty days after the public hearing. In the event a decision is not rendered within the time limit specified above, the notice of appeal is automatically rejected.

CHAPTER 12.335 -REPORT OF RESIDENTIAL BUILDING RECORD

12.335.010 Purpose. The city finds that it is necessary to maintain and upgrade the condition of the aging housing stock within the city to ensure the basic health and life safety of its residents. A report of residential building record prepared and issued upon the resale of residential property provides a reasonable and effective method of disclosing building conditions, unpermitted improvements, and mandatory items of correction to meet the city codes governing basic health and life safety. In addition, the city finds that a report of residential building record provides a valuable disclosure of building conditions to the purchaser, and an opportunity for the city to enforce building and zoning codes.

12.335.020 Definitions. For purposes of this section, the following definitions shall apply:

1. "Building official" means the building official, an authorized deputy, designated building inspector or other designated employee of the community development department building division charged with enforcement and administration of this chapter.
2. "Owner" means any person, co-partnership, association, corporation or fiduciary, or their authorized agent(s) having legal or equitable title or any interest in any real property.
3. "Purchaser" means any person, partnership, association, corporation or fiduciary, or their authorized agent(s) acquiring legal or equitable title or any interest in any real property.
4. "Report" means the report of residential building record.
5. "Residential building" means any improved property designed or permitted to be used for dwelling purposes (e.g., single-family dwelling, two-family (duplex) dwelling or multiple-family dwelling (apartment), or town home), situated in the city and shall include all the buildings or structures located on the improved real property.

12.335.030 Report required. Prior to the sale or exchange of any residential building, the owner thereof shall obtain from the city a report of residential building record, which documents the findings of a city permit records search and city inspection.

12.335.040 Application for report. An owner required by this chapter to obtain a report shall file an application to the community development department, building division, on forms provided by the department containing such information that may be deemed necessary.

12.335.050 Fees. A report shall be subject to an application fee made payable upon application to the city by the owner. The filing fee for the report shall be as set forth in the city's master fee schedule.

12.335.060 Contents of report. Upon application of the owner and payment of the fee, the building division shall review pertinent city records and inspect the premises in question. Upon completion of the review and the inspection, the building division shall make available to the owner a written report of residential building record, which shall contain in respect to the residential building and property the following information:

1. The street address and assessor's parcel number of subject property;
2. A statement documenting the zoning district classification for the property and a list of the zoning permits and/or approvals that have been granted to the property;
3. A list of the record of construction permits that are on file with the building division and, if any, the active or expired building permits that have been issued for work not yet completed on those premises;
4. A list of past code enforcement cases and actions taken by the city;
5. A statement confirming the type and number of residential buildings and dwelling units observed at the time of the city inspection;

6. A statement as to whether there are any nonconformities or illegalities in the structures on the property or the uses such as, but not limited to, undocumented dwelling units or unpermitted improvements observed at the time of the city inspection;
7. A statement listing any violations observed at the time of the city inspection and the required remedy for such violations (e.g., obtaining retroactive permits or abatement);
8. A statement of advisory notations from the city on improvements observed at the time of the city inspection;
9. The name of the city building inspector that conducted the city inspection supporting the report findings, along with the name and contact information of the building division employee that is available to assist in addressing questions and issues;
10. The dates of report issuance and expiration; and
11. A return receipt and buyer's certification form.
12. A notification of the appeal process available to the owner who wishes to contest the contents of the report.

12.335.070 Policies, practices and procedures for administering the report program. The report program shall be administered and enforced by the community development department consistent with city policies, practices and procedures adopted by resolution of the city council. The adopted policies, practices and procedures shall address and incorporate, among others, the following:

1. Time frames and procedures for report processing and remedies;
2. The specifics on the scope of the city inspection for owner and purchaser awareness and to minimize redundancy with the privately-commissioned inspection reports prepared as part of the resale transaction;
3. A list of unpermitted improvements disclosed during the city inspection that are waived from obtaining a retroactive permit(s);
4. Policies for fees for the report application, appeals, refunds and waivers; and
5. Measures to facilitate customer awareness and knowledge of the report program.

12.335.080 Delivery and receipt of report to purchaser. When completed, the report shall be made available to the seller (owner) or their authorized agent(s) who shall acknowledge receipt of the same. The owner or their authorized agent(s) shall deliver the report to the purchaser or transferee prior to the consummation of the sale. The purchaser or transferee shall execute an acknowledgment of receipt of the report and deliver a copy of said receipt to the community development department building division.

12.335.090 Appeals. The report results and/or findings may be appealed to the community development director by the owner or his or her authorized representative. All appeals must be filed in writing with the community development department within five working days of the date of issuance of the report and accompanied by an appeal fee as set forth and adopted in the city's master fee schedule. The community development director shall review and render a written determination on the appeal within ten working days of the filing date of the appeal.

12.335.100 Expiration and extension. The report of residential building record shall be valid for a period of six months from the date of issuance by the city. Prior to the expiration date of the report, the owner may request, and the city may issue one extension of up to three additional months. There shall be no fee for the issuance of the extension. In the event the property is not sold and is remarketed after the report has expired, a new report shall be requested and issued by the city.

12.335.110 Exceptions. The provisions of this chapter shall not apply to:

1. The first sale of any residential building if such sale is within a twelve-month period from the recordation of the notice of completion of the residential building;
2. A re-conveyance by a trustee pursuant to the provisions of a deed of trust;
3. A transfer of property made without valuable consideration (e.g., transfer by reason of death or transfer into or out of a revocable trust);
4. A transfer of property made solely between co-owners; and

5. The transfer of a mobile home or trailer occupying land pursuant to a month-to-month rental or annual lease agreement, which does not involve the transfer or conveyance of real property.

12.335.120 Compliance with law. No statements contained in a report of a residential building record issued by the city shall authorize the use or occupancy of any residential building contrary to the provisions of any law or ordinance. Every report issued under this chapter shall contain a provision stating that the issuance of such report shall not constitute a representation by the city that the property or its present use is or is not in compliance with the law, and that the report does not constitute a full disclosure of all material facts affecting the property or the desirability of its sale.

12.335.130 Failure to obtain a report. Except as provided in this chapter, it is unlawful for the owner of a residential building in the city to sell or exchange the same without first having obtained a report pursuant to this chapter and delivering it to the purchaser. Any person violating any of the provisions of this chapter is guilty of an infraction and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars.

CHAPTER 12.340 - UNREINFORCED MASONRY BUILDING MITIGATION PROGRAM

12.340.010 Purpose. The purpose of this chapter is to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on unreinforced masonry buildings. Such buildings have been widely recognized for sustaining life-hazardous damage, including partial or complete collapse during moderate to strong earthquakes. The provisions of this chapter are intended as minimum standards for structural seismic resistance established primarily to reduce the risk of life loss or injury. Compliance with these standards will not necessarily prevent loss of life or injury or prevent earthquake damage to rehabilitated buildings. This chapter does not require alteration of existing electrical, plumbing, mechanical or fire safety systems unless they constitute a hazard to life or property. This chapter provides systematic procedures and standards for identification and classification of unreinforced masonry buildings based on their present use. Priorities, time periods and standards are also established under which these buildings are required to be structurally analyzed and repaired. Qualified Historical Buildings shall comply with the State Historical Building Code (SHBC) established under Part 8, Title 24 of the California Administrative Code.

12.340.020 Scope. The provisions of this chapter shall apply to all buildings which on the effective date of the ordinance codified in this chapter have unreinforced masonry bearing walls as defined in this chapter. The building official, or his authorized representative, shall create and maintain a list of the existing unreinforced masonry buildings in the city. This list shall be kept current and additions and deletions of buildings from this list shall be made at any time changes in building status are determined.

Exception: This chapter shall not apply to detached one (1) family or two (2) family dwellings, detached apartment houses containing less than five (5) dwelling units and which are used solely for residential purposes, and warehouses.

12.340.030 Definitions. For purposes of this chapter, the applicable definitions in the Uniform Building Code shall also apply (for the purposes of this chapter, all references to the Uniform Building Code shall refer to the 1985 Edition):

1. "Essential building" means any building housing a hospital or other medical facility having surgery or emergency treatment areas; fire or police stations; municipal government disaster operation and communication centers.
2. "High risk building" means any building, not classified as an essential building, having an occupant load of one hundred (100) or more, as determined by Section 3302(a).

Exception: A high risk building shall not include the following:

- a. Any building having exterior walls braced with masonry cross walls or wood frame cross walls spaced less than forty feet (40') apart in each story. Cross walls shall be defined as

- walls having full story height with a minimum length of one and one-half (1 1/2) times the story height;
- b. Any building used for its intended purpose, as determined by the building official, for less than twenty (20) hours per week.
3. "Medium risk building" means any building, not classified as a high risk building or an essential building, having an occupant load of fifty (50) occupants or more as determined by Section 3302(a).
 4. "Low risk building" means any building, not classified as an essential building, having an occupant load of less than fifty (50) occupants as determined by Section 3302(a).
 5. "Open front" is an exterior building wall plane on one (1) side only without vertical elements of the lateral force resisting system in one (1) or more stories.
 6. "Pointing" is the partial reconstruction of the bed joints of an unreinforced masonry wall as defined in U.B.C. Standard No.24.42.
 7. "Unreinforced masonry bearing wall" is a wall which provides the vertical support for a floor or roof for which the total superimposed load exceeds one hundred (100) pounds per linear foot of wall.

12.340.040 Rating classifications. The rating classifications shown in Table No. 12.340.040A below are established and each building within the scope of this chapter shall be placed in one (1) such rating classification by the building official. The total occupant load of the entire building as determined by Section 3302(a) shall be used to determine the rating Classification.

Exception: For the purpose of this chapter, any buildings, portions of which are constructed to act independently when resisting seismic forces, may be placed in separate rating classifications.

**TABLE 12.340.040A
Rating Classifications**

Type of building	Classification
Essential building	I
High risk building	II
Medium risk building	III
Low risk building	IV

12.340.050 General requirements. All buildings subject to the provisions of this chapter shall be seismically strengthened as follows:

1. Parapet bracing shall be provided except where adjacent structures will prevent parapets from falling away from buildings.
2. Floors and roofs shall be anchored to their supporting walls.
3. Open fronts shall be seismically braced.
4. Mortar joints shall be pointed.
5. Any special site-specific conditions felt by the building official of the designer to be an immediate hazard to public health and safety shall be corrected.

The design standard for compliance with the items listed in this section shall be in conformance with subsection (d) of this section.

Should a property owner wish to strengthen his building beyond the requirements of this section, such additional work shall comply with the requirements of subsection (d) of this section.

Unreinforced masonry buildings to be strengthened pursuant to items (1) through (5) of this section and subsection (c) of this section shall be designed and repaired in compliance with the applicable sections of Appendix Chapter 1 of the 1991 Edition of the Uniform Code for Building Conservation or other recognized

standards acceptable to the building official. Deviations from these standards may be made if, in the opinion of the structural engineer and the building official, compliance with the standards would result in extreme hardship and the deviations are not likely to result in damage from earthquake forces that would injure occupants or passersby.

12.340.060 Administration.

Service of Order. The building official shall issue an order to the owner of each building within the scope of this chapter in accordance with the maximum time periods for service of such orders set forth in Table 12.340.060 A. The maximum time period for the service of such orders shall be measured from the effective date of the ordinance codified in this chapter.

**TABLE 12.340.060A
Service Priorities**

Rating Classification	Occupant Load	Maximum Time Periods for Service Order by City
I (Highest Priority)	Any	0
II	100 or more	180 days
III	50 to and including 99	2 years
IV (Lowest Priority)	Less than 50	2 years

12.340.060.1 Time Limits for Compliance. The owner of a building within the scope of this chapter shall comply with the requirements set forth above by submitting to the building official:

1. Within two hundred seventy (270) days after the service of the order, a structural analysis, which is subject to approval by the building official, and which shall demonstrate that the building meets the minimum requirements of this chapter; or
2. Within two hundred seventy (270) days after the service of the order, a structural analysis, plans, and a building permit application for the proposed structural alterations of the building necessary to comply with the minimum requirements of this chapter; or
3. Within two hundred seventy (270) days after the service of the order, plans for the demolition of the building.

12.340.060.2 After plans are submitted and approved by the building official, the owner shall obtain a building permit and commence and complete the required construction or demolition within the time limits set forth in Table 12.340.060 B. These time limits shall commence from the date the order is served in accordance with this section.

**TABLE 12.340.060B
Compliance Time Limits**

Required Action	Obtain Building Permit	Commence Construction	Complete Construction
Complete structural alterations or building demolition	1 year (from service of order)	180 days ¹	1 year ¹
1. Measured from date of building permit issuance. All the other time limits are measured from the date of the order.			

12.340.060.3 Contents of Order. The order shall be in writing and shall be served by certified or registered mail upon the owner as shown on the last equalized assessment, and upon the person, if any, in apparent charge or control of the building. The order shall specify that the building has been determined by the building official to be within the scope of this chapter and,

therefore, is required to meet the minimum seismic standards of this chapter. The order shall specify the rating classification of the building and shall be accompanied by a copy of Sections 12.340.5 and 12.340.6 which set forth the owner's alternatives and time limits for compliance.

12.340.060.4 Appeal from Order. The owner of the building may appeal to the city council, sitting as the board of appeals, the building official's initial determination that the building is within the scope of this chapter. Such appeal shall be filed with the board within sixty (60) days from the service date of the order described in Section 12.340.6. Any such appeal shall be decided by the board no later than sixty (60) days after the date that the appeal is filed. The appeal shall be made in writing upon appropriate forms provided therefor, by the building official and the grounds thereof shall be state clearly and concisely. Filing of an appeal hereunder shall toll the time periods specified in subsection (b) of this section.

Each appeal shall be accompanied by a filing fee as set forth by resolution of the city council. Appeals or requests for slight modifications from any other determinations, orders or actions by the building official pursuant to this chapter, shall be made in accordance with the normal appeal procedures established in this code.

12.340.060.5 Recordation. At the time that the order is served, the building official shall file with the office of the county recorder a certificate stating that the subject building is within the scope of Chapter 12.340, Unreinforced Masonry Building Mitigation Program. The certificate shall also indicate that the owner thereof has been ordered to structurally analyze the building and to structurally alter or demolish it where it is not found to comply with Chapter 12.340.

If the building is found not to be within the scope of this chapter, or as a result of structural alterations is found to be structurally capable of resisting minimum seismic forces required by this chapter, or is demolished, the building official shall file with the office of the county recorder a certificate terminating the status of the subject building as being classified within the scope of Section 12.34, Unreinforced Masonry Building Mitigation Program.

12.340.060.6 Program Status Reports to the City Council. The building official may submit an annual report to the city council on the status of the unreinforced masonry building mitigation.

CHAPTER 12.345 - WOOD-BURNING APPLIANCES

12.345.010 Purpose. The purpose of this chapter is to improve air quality within the county by regulating the type of wood-burning appliances that may be installed and maintained within the city.

12.345.020 Definitions. For the purposes of this chapter the following definitions shall apply:

1. "Bay area air quality management district" means the air quality agency for the San Francisco Bay Area pursuant to California Health and Safety Code.
2. "EPA" means the United States Environmental Protection Agency.
3. "EPA certified wood heaters" means any wood heater that meets the standard in Title 40 Part 60.530 Subpart AAA Code of Federal Regulations in effect at the time of installation and is certified and labeled pursuant to those regulations. An EPA certified wood heater may be freestanding, built-in, or an insert within a fireplace.
4. "Fireplace" means any permanently installed masonry or factory-built wood-burning appliance designed to be used with an air-to-fuel ratio greater than or equal to thirty-five is to one (35:1).
5. "Gas fireplace" means any masonry or factory-built fireplace in which a device that has been designed to burn natural gas or liquefied petroleum gas in a manner that simulates the appearance of burning wood has been permanently installed so the burner pan and associated equipment are affixed to the masonry or metal base of the fireplace.

6. "Insert" means any wood heater designed to be installed in an existing masonry or factory-built fireplace.
7. "Pellet-fueled heater" means any appliance that operates exclusively on solid fuel pellets
8. "Solid fuel" means wood or any other non-gases or non-liquid fuel.
9. "Wood-burning appliance" means a fireplace, wood heater, or pellet-fired heater or similar device burning solid fuel used for aesthetic or space-heating purposes.
10. "Wood heater" means an enclosed, wood-burning appliance that is not a fireplace capable of and intended for space heating that meets all the following criteria:
 - a. An air-to-fuel ratio in the combustion chamber averaging less than thirty-five is to one (35:1) as determined by the test procedures prescribed and approved by the building official;
 - b. A usable firebox volume less than twenty (20) cubic feet (0.57 cubic meters);
 - c. A minimum burn rate less than eleven (11) lb/hr (kg/hr); and
 - d. A maximum weight of less than one thousand seven hundred sixty (1,760) lbs. (eight hundred (800) kg).
11. "Wood stove" means a freestanding wood heater.

For the purpose of this chapter, fixtures and devices that are normally sold separately, such as flue pipe, chimney and masonry components that are not an integral part of the appliance or heat distribution ducting do not count as part of the appliance weight.

12.345.030 Exemptions. Wood-burning appliances specifically designed for cooking, outdoor fireplaces, gas and pellet-fueled appliances, and permanently installed or dedicated gas log fireplaces and wood-burning fireplaces legally installed prior to the effective date of the ordinance codified in this chapter, shall be exempt from all provisions of this chapter. The building official may approve an alternate wood-burning appliance, provided the building official finds that the proposed alternate appliance meets or exceeds the standards established for a EPA Phase II-certified wood heater.

12.345.040 Permit required. A building permit is required for the installation or replacement of any wood-burning appliance. Submittal for a building permit shall include documentation that the appliance is in compliance with the requirements of this chapter.

12.345.050 New construction, additions or remodels. Non-EPA Phase II-certified wood heaters or wood-burning fireplaces will not be allowed to be installed in new construction, additions or remodels of any size. Pellet-fueled and gas appliances will be allowed. Conversion of a gas fireplace to a wood-burning fireplace is prohibited.

12.345.060 Removal or replacement of non-compliant appliances upon remodel. A non-EPA Phase II-certified wood-burning appliance, with the exception of an existing wood-burning fireplace legally installed prior to the effective date of the ordinance codified in this chapter, shall be removed, rendered inoperable or replaced with a compliant appliance when:

1. The combination of the addition, alteration or remodeling exceeds fifty percent (50%) of the floor area of the existing structure, thereby constituting a substantial remodel; and
2. The appliance is located within the room or area of the renovation.

DIVISION 2 FINDINGS.

California Health and Safety Code Sections 17958.5, 17958.7, and 18941.5 require that findings be made in order to change or modify building standards found in the California Building Standards Code based on local climatic, geologic, or topographic conditions. Therefore, the San Rafael City Council hereby finds that these changes or modifications to the Building Code as adopted in Chapter 12.210 of the San Rafael Municipal Code; the Residential Code as adopted in Chapter 12.255; and the Existing Building Code as

adopted in Chapter 12.230 are reasonably necessary because of the following local climatic, geological and topographical conditions:

I. Climatic conditions:

- a) Most of the annual rainfall in San Rafael occurs during the winter, it receives no measurable precipitation between May and October. During this time, temperatures average between 70 and 90 degrees. These conditions eliminate most of the moisture in the natural vegetation and heavily wooded hillsides. The area also suffers periodic droughts that can extend the dry periods to other months of the year. These conditions can be further exacerbated by occasional off-shore hot, dry, Santa-Ana winds; all of which contribute to an elevated fire hazard.
- b) Most of the annual rainfall in San Rafael occurs during the winter, and some portions of San Rafael are subject to tidal influences, there are times that flooding conditions occur in low-lying areas

II. Geologic conditions:

- a) San Rafael lies near several earthquake faults, including the very active San Andreas Fault, there are significant potential hazards such as road closures, fires, collapsed buildings, and isolation of residents requiring assistance.
- b) Many areas of the city, including some highly developed industrial and commercial areas, are located on bay alluvial soils which are subject to liquefaction in the event of an earthquake.

III. Topographic conditions:

- a) Much of San Rafael is located in hilly areas, and many of the residential areas are heavily landscaped, and many exist adjacent to hilly open space areas which are characterized by dry vegetation and have limited access. In addition, the steepness of grades located in the hills and canyons results in narrow and winding roads, and limited water supply, making timely access, rescue and firefighting activities by emergency providers difficult.
- b) The major arterial route between San Francisco and Marin and Sonoma county areas, Highway 101, bisects the City of San Rafael; should that highway become impassable, alternative routes via surface streets in San Rafael may cause heavy traffic congestion, limiting emergency access.

More specifically, the above modified building standards are listed below with the corresponding climatic, geological or topographical condition which necessitates the modification.

CBC Section Numbers	Climatic, geological and topographical condition
903.2	<i>Ia, IIa, IIIa, IIIb</i>
907.2.10.2.3	<i>Ia, IIa, IIIa</i>
1015.8	<i>Ib, IIa</i>
1505.1	<i>Ia, IIIa</i>
1807	<i>Ib, IIa, IIb</i>
3109	<i>IIIa</i>
3202.2.3	<i>IIa, IIb, IIIb</i>

CEBC Section Numbers	
406	<i>Ib, IIa</i>

CRC Section Numbers

<i>R313.1</i>	<i>la, IIa, IIIa,IIIb</i>
<i>R313.2</i>	<i>la, IIa, IIIa,IIIb</i>
<i>R314.7.2</i>	<i>la, IIa, IIIa</i>
<i>R902.1</i>	<i>la, IIIa</i>

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This Ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to 14 CCR Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment. (14 Cal. Code Regs. Section 15061(b)(3), 'general rule' provision).

DIVISION 4 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council of the City of San Rafael hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

DIVISION 5. EFFECTIVE DATE OF ORDINANCE.

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 effective on January 1, 2020. 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.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the _____ day of _____, 2019 and ordered passed to print by the following vote, to wit:

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

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 _____ day of _____, 2019.

LINDSAY LARA, City Clerk




Agenda Item No: 4.e
Meeting Date: November 4, 2019

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Fire Department

**Prepared by: Christopher Gray,
Fire Chief**

City Manager Approval: 

TOPIC: TRI-ANNUAL FIRE CODE ORDINANCE AMENDMENTS

SUBJECT: INTRODUCTION OF PROPOSED ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING CHAPTER 4.08 OF THE SAN RAFAEL MUNICIPAL CODE TO ADOPT BY REFERENCE THE CALIFORNIA FIRE CODE 2019 EDITION WITH AMENDMENTS, THE INTERNATIONAL FIRE CODE 2018 EDITION, AND APPENDIX A OF THE 2018 INTERNATIONAL WILDAND-URBAN INTERFACE CODE AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO SUCH CODES AND SETTING A PUBLIC HEARING DATE FOR ADOPTION

RECOMMENDATION:

Introduce and pass to print an ordinance amending Chapter 4.08 of the San Rafael Municipal Code to adopt by reference the 2019 California Fire Code with local amendments, the 2018 International Fire Code, and Appendix A of the 2018 International Wildland-Urban Interface Code, and make findings of fact supporting amendments to such codes; and set a public hearing on November 18, 2019 to consider adoption of the Ordinance.

BACKGROUND:

This is the routine triannual update of the California Fire Code. This update does not contain, nor will it conflict with, additional future vegetation fire safety provisions that will be proposed pertaining to the [Wildfire Prevention and Protection Action Plan](#), the forming of the [Marin Wildfire Prevention Authority](#), and subsequent recommendations proposed both by staff and the Wildfire Advisory Committee. These changes will be brought forward in the form of a separate vegetation Management Ordinance.

The proposed ordinance adopts the latest version of the California Code of Regulations Title 24 Fire Code; specifically, the 2019 California Fire Code with local amendments, the 2018 International Fire Code, and Appendix A of the 2018 International Wildland-Urban Interface Code. State law mandates that the California Fire Code become effective statewide on January 1, 2020, with or without local amendments. The public hearing and final adoption is scheduled take place at the next regularly scheduled meeting of the City Council on November 18, 2019.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

ANALYSIS:

California Code of Regulations Title 24, the California Fire Code, is published on a three-year cycle. The California Building Standards Commission publishes the tri-annual code and State law mandates that this code become effective throughout California 180 days after the publication date. This is done in order to foster uniformity in fire prevention and construction standards statewide. Local jurisdictions are permitted to amend the published codes based on local climatic, geological, or topographical conditions. The proposed ordinance contains local amendments that have been carried over from previous years.

This update contains updates that reflect revised code sections of both the California Fire Code and City Municipal Code. There are no substantial amendments being proposed at this time.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

ENVIRONMENTAL REVIEW:

It has been determined that this ordinance amendments are covered by the 'general rule' that the California Environmental Quality Act (CEQA) applies only to projects which have the potential to cause a significant, physical environmental environment. Pursuant to CEQA Section 15061(b)(3), the ordinance amendments are not subject to environmental review.

OPTIONS:

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

1. Introduce the ordinance and set the public hearing for November 18, 2019.
2. Introduce the ordinance with amendments as directed by the City Council and set the public hearing for November 18, 2019.
3. Postpone introduction of the ordinance to allow amendments to be incorporated into the ordinance. Should the City Council decide to postpone adoption of the ordinance, the State codes will become effective on January 1, 2020 without the benefit of the recommended local amendments.

RECOMMENDED ACTION:

Introduce and pass to print the Ordinance amending Chapter 4.08 of the San Rafael Municipal Code to adopt by reference the 2019 California Fire Code with local amendments, the 2018 International Fire Code, and Appendix A of the 2018 International Wildland-Urban Interface Code and adopt findings of fact supporting amendments to such codes; and set a public hearing on November 18, 2019 to consider adoption of the Ordinance.

ATTACHMENT:

1. Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING CHAPTER 4.08 OF THE SAN RAFAEL MUNICIPAL CODE TO ADOPT BY REFERENCE THE CALIFORNIA FIRE CODE 2019 EDITION WITH AMENDMENTS, THE INTERNATIONAL FIRE CODE 2018 EDITION, AND APPENDIX A OF THE 2018 INTERNATIONAL WILDAND-URBAN INTERFACE CODE AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO SUCH CODES

WHEREAS, the City of San Rafael may adopt a fire prevention code by reference pursuant to Article 2 commencing with Section 50022 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code; and

WHEREAS, pursuant to Health and Safety Code Section 13869, the City of San Rafael may adopt building standards relating to fire and panic safety that are more stringent than those building standards adopted by the State Fire Marshal and contained in the California Building Standards Code when such modified standards are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, pursuant to Sections 17958.5, 17958.7, and 18941.5 of the State of California Health and Safety Code, changes or modifications to the 2019 California Building Standards Code are needed and are reasonably necessary because of local climatic, geographic and topographic conditions; and

WHEREAS, this Ordinance was introduced and passed to print at a meeting of the San Rafael City Council on the 4th day of November 2019;

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

DIVISION 1. Title 4, Chapter 4.08 of the Municipal Code of the City of San Rafael is hereby amended to read as follows:

CHAPTER 4.08. FIRE CODE

Sections:	4.08.010	Purpose.
	4.08.020	Adoption of the California Fire Code, 2019 Edition and the International Fire Code, 2018 Edition, with Amendments and Appendix A of the 2018 International Wildland-Urban Interface Code
	4.08.030	Definitions.
	4.08.040	Administration and Enforcement of the Fire Code.
	4.08.050	The Fire Chief has Powers of Police and

	authority to arrest and issue citations.
4.08.060	Restrictions on the storage of flammable and combustible liquids in aboveground tanks outside of buildings.
4.08.070	Restrictions on the storage and dispensing of liquefied petroleum gases (LP-gas).
4.08.080	Explosives and blasting agents prohibited.
4.08.090	Restrictions on storage of compressed natural gas.
4.08.100	Restrictions on storage of stationary tanks of flammable cryogenic fluids.
4.08.110	New materials, processes or occupancies which may require permits.
4.08.120	Amendments to the Fire Code.
4.08.130	Enforcement and Penalties.
4.08.140	Appeals.

4.08.010 Purpose.

The 2019 California Fire Code which consists of certain portions of the 2018 International Fire Code as amended by the California Building Standards Commission described in Section 4.08.020 are adopted for the following purposes:

1. To prescribe regulations and building standards in order to protect life and property from fire, explosion, earthquake and other disasters;
2. To provide for permits as prescribed herein;
3. To establish and maintain a Fire Prevention Bureau;
4. To provide penalties for violations of this code.

4.08.020 Adoption of the California Fire Code, 2019 Edition and the International Fire Code, 2018 Edition, with Amendments.

The City Council hereby adopts by reference, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, those certain codes which contain building standards and fire safety standards known as the 2019 California Fire Code (International Fire Code, 2018 Edition as amended by the State of California) as published by the California Building Standards Commission, together with appendices B, C, D, F, I and K thereto; and the 2018 International Fire Code; save and except such portions as are herein added, deleted, modified or amended. Where conflicts occur between provisions of the 2019 California Fire Code and the 2018 International Fire Code, the provisions of the 2019 California Fire Code as amended shall apply

4.08.030 Definitions.

Except as words are defined in section 4.08.120, the words used in this chapter and in the adopted codes listed in 4.08.020 shall have the meaning as defined below.

The following words are defined:

1. Whenever the words "Building Code" are used, they shall mean the California Building Code, as adopted by the City of San Rafael, with amendments.
2. Whenever the words "Residential Code" are used, they shall mean the California Residential Code, as adopted by the City of San Rafael, with amendments.
3. Whenever the words "Fire Code" are used, they shall mean this chapter and the codes and standards adopted in section 4.08.020, with amendments.
4. Whenever the word "Jurisdiction" is used, it shall mean the City of San Rafael.

4.08.040 Administration and Enforcement of the Fire Code.

A. The Fire Chief has the authority to interpret, administer and enforce this code. The Fire Chief may delegate any or all of his authority under this code to such duly authorized subordinates in the Fire Department as he may designate and the actions of such duly authorized subordinates shall be construed as valid actions of the Fire Chief.

B. The Fire Chief shall have the authority and powers of a Code Enforcement Official, as specified in San Rafael Municipal Code Chapters 1.08 and 1.40, in performing the duties under this code.

C. The Fire Chief shall have the authority to order the immediate abatement of any hazard, located within or on public or private property and any public thoroughfare or railroad, when deemed by the Fire Chief to be an imminent hazard to the life, health, safety and the well-being of the public, firefighters and other City employees.

D. Whenever the Fire Chief finds an activity or use regulated by this code being performed or used in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the Fire Chief is authorized to issue an order to cause the activity or use to cease or desist immediately.

4.08.050 The Fire Chief has Powers of Police and authority to arrest and issue citations.

A. The Fire Chief and his duly authorized subordinates shall have the powers of a police officer in performing their duties under this code. When requested to

do so by the Fire Chief, the Chief of Police is authorized to assign such available police officers as necessary to assist them in enforcing the provisions of this code.

B. The Fire Chief and his duly authorized subordinates shall have authority to arrest or to cite any person who violates any provision of the Fire Code, in the manner provided for the arrest or release on citation and notice to appear with respect to misdemeanors or infractions, as prescribed by Chapters 5, 5C and 5D of Title 3 of Part 2 of the California Penal Code, including Section 853.6, or as the same hereafter may be amended.

C. It is the intent of the City Council that the immunities provided in Penal Code Section 836.5 be applicable to the aforementioned Fire Chief and his duly authorized subordinates exercising their arrest or citation authority within the course and scope of their employment pursuant to this code.

4.08.060 Restrictions on the storage of flammable and combustible liquids in aboveground tanks outside of buildings.

A. Pursuant to Sections 5704.2.9.6.1 and 5706.2.4.4 of the Fire Code, except as provided in Subsection B of this Section, the storage of flammable and combustible liquids outside buildings in aboveground tanks is prohibited in all areas of the City.

B. Providing storage of flammable and combustible liquids is within an approved aboveground fuel storage tank as required by the Fire Code, such storage and quantities are permitted in the following districts as defined in Title 14 of the Municipal Code:

1. Districts designated as I, LI/O, M, MC, or CCI/O shall be permitted to have a maximum of ten thousand (10,000) gallons at any one (1) site.
2. Districts designated as PD, providing that they are industrial use in nature, shall be permitted to have a maximum of ten thousand (10,000) gallons at any one (1) site.
3. Districts designated as GC, C/O, FBWC, or PD (providing that they are commercial use) shall be permitted to store a maximum of five thousand (5,000) gallons at any one (1) site.
4. Discretion may be exercised by the Fire Chief to modify the maximum capacities allowed by this section, in accordance with regulations and standards adopted by the Fire Chief to protect against any increased hazards to life or property.

C. Bulk plants for the storage of flammable or combustible liquids are prohibited within the jurisdiction.

D. Prior to the Fire Department authorizing installation of a tank system, the applicant shall apply for and obtain Environmental and Design Review Permit approval from the Community Development Department as provided in Chapter 14.25.

4.08.070 Restrictions on the storage and dispensing of liquefied petroleum gas (LP-gas).

- A. Pursuant to Section 6104.2 of the California Fire Code, except as provided in Subsection B of this Section, the storage of LP-gas is prohibited in all areas of the City.
- B. Storage, limited to one thousand (1,000) gallons of LP-gas at any one (1) site, is permitted in the following districts as defined in Title 14 of the Municipal Code, except that up to one thousand five hundred (1,500) gallons of LP-gas may be permitted at any one (1) site, provided that the LP-gas storage tank system is protected in a manner approved by the Fire Chief:
 - 1. Districts designated as I, LI/O or CCI/O;
 - 2. Districts designated as PD, providing that they are industrial use in nature;
 - 3. Districts designated as GC, C/O, FBWC, HO, 2/3 MUE, 2/3 MUW, M, MC or PD (providing that they are commercial use) only if the tank system is wholly protected in a manner approved by the Fire Chief.
- C. The storage of any LP-gas tank system in any residential district is prohibited unless there are no natural gas lines available to be connected to the residence.
- D. The dispensing of LP-gas is prohibited in all districts except such dispensing is permitted in those districts outlined in Subsection B of this Section.
- E. Exceptions to the Restrictions.
 - 1. Limited quantities only when used in conjunction with home LP-gas barbecues, recreational vehicles or similar uses;
 - 2. Limited quantities only when used in conjunction with LP-gas driven vehicles;
 - 3. Limited quantities only when used in conjunction with construction projects for which a Building Permit has been issued;
 - 4. Existing bulk LP-gas facilities shall be able to continue their use and shall be able to relocate their facilities with the express permission of the Fire Chief and the City Council.
- F. Prior to the Fire Department authorizing installation of a tank system, the applicant shall apply for and obtain Environmental and Design Review Permit approval from the Community Development Department as provided in Chapter 14.25.

4.08.080 Explosives and blasting agents prohibited.

Except where a Fire Permit is issued in accordance with Section 105.6.14, Section 105.6.40, or Section 105.6.51 of the Fire Code, the manufacture, storage, handling, sale, or use of any explosives, explosive materials, blasting agents, fireworks or pyrotechnic special effects is prohibited within the jurisdiction.

4.08.090 Restrictions on storage of compressed natural gas.

Compressed natural gas facilities are prohibited in all areas of the City except the following districts as defined in Title 14 of the Municipal Code:

1. Districts designated as I, LI/O or CCI/O;
2. Districts designated as PD providing that they are industrial use in nature.

4.08.100 Restrictions on storage of stationary tanks of flammable cryogenic fluids.

Pursuant to Chapter 55 of the Fire Code, the storage of flammable cryogenic fluids in stationary containers is prohibited in all areas of the City except the following districts as defined in Title 14 of the Municipal Code:

1. Districts designated as I, LI/O or CCI/O;
2. Districts designated as PD providing that they are industrial use in nature.

4.08.110 New materials, processes or occupancies which may require permits.

The Fire Chief shall determine and specify, after giving affected persons an opportunity to be heard, any new materials, process or occupancies which shall require permits in addition to those now enumerated in the Fire Code. The Fire Chief shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

4.08.120 Amendments to the Fire Code.

The 2019 California Fire Code and the 2018 International Fire Code are amended or modified, as follows:

Section 1.11.2.1 is hereby amended to read as follows:

1.11.2.1.1 Enforcement. Pursuant to Health & Safety Code Section 13146, the Fire Chief shall have the responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal, for Group R-3 occupancies and all buildings and property subject to regulation by the City.

Section 102.5 is hereby amended to read as follows:

102.5 Application of California Residential Code. Where structures are designed and constructed in accordance with the *California Residential Code*, the provisions of this code shall apply as follows:

1. Design and construction provisions: Provisions of this code pertaining to the exterior of the structure shall apply including, but not limited to, premises identification, fire apparatus access and water supplies. Provisions of this code pertaining to the interior of the structure shall apply when specifically required by this code, including but not limited to Section 903.2. Where interior or exterior systems or devices are installed, construction permits required by Section 105.7 of this code also shall apply.
2. Administrative, operational and maintenance provisions: All such applicable provisions of this code shall apply.

Section 103.1 is hereby amended to read as follows:

103.1 Fire Prevention Bureau. The Fire Prevention Bureau is established within the Fire Department under the direction of the Fire Chief. The function of the Fire Prevention Bureau shall include the interpretation, implementation, administration and enforcement of the Fire Code and adopted standards. The Fire Prevention Bureau is authorized to enforce the provisions of other codes and ordinances of the City pertaining to the storage, handling and use of hazardous materials, fire and life safety, and the fire protection system requirements of the Building Code and the Residential Code.

Section 103.4.1 is deleted.

Section 104.12 is hereby added to read as follows:

104.12 Liability of persons causing a Fire Department response. The Fire Department may recover the costs and expenses of a Fire Department response (incident) within the responsibility for enforcement of the Fire Chief, including all costs and expenses of the Fire Department and other mutual aid Fire Departments responding to the incident, where the incident has been caused by the willful misconduct or negligence of the party that caused the incident. These response costs shall be a debt of the business, corporation, individual or other responsible party owed to the Fire Department and to the other responding mutual aid Fire Departments. The City may collect response costs on behalf of itself, and also may collect response costs on behalf of the other mutual aid Fire Departments with their consent. The mutual aid Fire Departments also may collect their response costs directly from the responsible party. The City shall compute and bill the responsible party for such response

costs and expenses, with payment due within thirty (30) days following the mailing of the bill, unless an appeal is filed as provided in Section 4.08.140 A of the San Rafael Municipal Code. Upon failure to pay the response costs and expenses when due, the responsible person shall be liable, in a civil action brought by the City, for such response costs and expenses, and costs of the litigation, including reasonable attorneys' fees.

104.12.1 Liability for correction and abatement. Where the Fire Chief determines that a violation of any provision of this Chapter constitutes an immediate threat to public health or safety, the Fire Chief is authorized to take such corrective action as may be necessary to cause the summary abatement of the violation. The City may recover the costs and expenses associated with the correction and abatement of a violation or hazardous condition, including all costs and expenses incurred by the City and contractors hired by the City to cause the correction and abatement. These correction and abatement costs shall be a debt of the owner, business, corporation, individual or other responsible party owed to the City. The City shall compute and bill the responsible party for such correction and abatement costs and expenses, with payment due within thirty (30) days following the mailing of the bill, unless an appeal is filed as provided in Section 4.08.140 A of the San Rafael Municipal Code. Upon failure to pay the correction and abatement costs and expenses when due, the responsible person shall be liable, in a civil action brought by the City, for such correction and abatement costs and expenses, and costs of the litigation, including reasonable attorneys' fees.

Section 104.13 is hereby added to read as follows:

Section 104.13. Fire prevention resource sharing. Other enforcement agencies shall have authority to render necessary assistance to the City in plan review, inspection, code interpretation, enforcement and other fire prevention services when authorized and as delegated by the Fire Chief, by written agreement

Section 105.6.32 is hereby modified by deleting the exception.

Section 105.7 is hereby amended to read as follows:

105.7 Required construction permits. The fire code official is authorized to issue construction permits for work as set forth in Sections 105.7.1 to 105.7.18.

Section 105.7.26 is hereby added to read as follows:

105.7.26 Vegetation Management Fire Protection Plan. A construction permit is required to implement a vegetation management fire protection plan for a new structure located in the Wildland-Urban Interface as designated in San Rafael Municipal Code Section 4.12.010. The vegetation management fire protection plan shall comply with Chapter 49 of this code and the Vegetation Management Standards in San Rafael Municipal Code Section 4.12.030.

Section 110.4 is hereby amended to read as follows:

110.4 Violation penalties. Persons who shall violate a provision of this Chapter and the Fire Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or direction of the Fire Chief, or of a permit or certificate used under provisions of this code, shall be subject to the enforcement and penalties set forth in Section 4.08.130 of the San Rafael Municipal Code. Each day that a violation continues shall be deemed a separate offense.

Section 111.4 is hereby amended to read as follows:

111.4 Failure to comply. Any person who shall continue to work after having been served with a stop work order, or any person who shall continue an activity or a use after having been served with a cease and desist order, shall be guilty of misdemeanors/infractions and are subject to the penalties set forth in San Rafael Municipal Code Section 4.08.130.

Section 113.2 is hereby amended to read as follows:

113.2 Master fee schedule. The fees for permits and other services shall be as established in the Master Fee Schedule Resolution of the City Council as adopted from time to time. The fee shall be set to cover the cost to review the application, issue a permit, and inspect the intended construction, activities, operations, use, or functions. The fees must be paid to the City prior to engaging in the construction, activities, operations, use or functions.

Exception: The applicant for a given permit shall be exempt from payment when the event is sponsored by the City, or work to be conducted is located on properties owned by the City, or as otherwise determined by the Fire Chief.

Where it is determined during inspections that the construction, activity, or use repeatedly fails to comply with the requirements of the Fire Code, and additional inspections or re-inspections are required to verify compliance, the Fire Chief may require those additional inspections be billed at the fully burdened hourly rate as published by the City's Finance Director.

Section 113.3 is hereby amended as follows:

113.3 Work commencing before permit issuance. Any person who commences any work, activity, operation or use regulated by this code before obtaining the necessary permits may be subject to an additional investigation fee as determined by the Fire Chief; the investigation fee shall be two (2) times the normal permit fee, and shall be in addition to the normal permit fee as specified in the Master Fee Schedule Resolution.

Section 113.6 is hereby added to read as follows

113.6 After hours inspection fees. An after-hours inspection is an inspection conducted outside of normal work hours; 8:30 AM – 5:00 PM, Monday – Friday. Where an afterhours inspection is performed before or following normal work hours that inspection may be charged by the hour. Where an inspector is called back to duty to perform an afterhours inspection, that inspection may be charged at four (4) hours minimum, then by the hour for any additional hours required over four (4). The afterhours inspection fee shall be charged at a rate of one and one-half (1½) times the fully burdened hourly rate as published by the City's Finance director.

Section 113.7 is hereby added to read as follows

113.7 Operational permit applications. Application for Operational Permits (i.e: Assembly, Pyrotechnic, Tents, etc.) shall be submitted at least ten (10) business days prior to the scheduled event date. Applications submitted less than ten (10) business days prior to the event date may be charged one and one-half (1½) times the regular permit rate.

Section 202 is hereby amended by adding the definition of "Coverings" as follows:

COVERINGS. As applied to the definition of Substantial Remodel only, coverings shall mean materials including, but not limited, to gypsum board, lath and plaster, paneling (including wood paneling), floor boards, brick and mortar, or other materials attached to rough framing of the building elements. Coverings do not include finishes, such as carpet, tile, paint or wall paper.

Section 202 is hereby amended to read as follows:

FALSE ALARM. False alarm shall mean an alarm signal, willful, knowing or otherwise, initiating a response by the Fire Department where an emergency

situation did not or does not exist.

Section 202 is hereby amended by adding the definition of “Fire Prevention Standards” as follows:

FIRE PREVENTION STANDARDS. Fire prevention standards shall mean those supplemental rules and regulations that have been approved by the Fire chief to provide additional guidance and interpretation of this code.

Section 202 is hereby amended by adding the definition of “Fire Road” as follows:

FIRE ROAD. Fire road shall mean any improved or unimproved road, public or private, that provides access for firefighting equipment and personnel to undeveloped areas.

Section 202 is hereby amended by changing the first sentence of the definition of “Fireworks” to read as follows:

FIREWORKS. Fireworks shall mean any composition or device for the purpose of producing a visible or audible effect for entertainment purposes by combustion, deflagration, or detonation, and any “safe and sane” fireworks as defined by section 12529 of the State of California Health and Safety Code, and including 1.4G fireworks and 1.3G fireworks as set forth hereafter.
[Remainder is unchanged]

Section 202 is hereby amended by adding the definition of “Pre-plans” as follows:

PRE-PLANS. Pre-plans shall mean detailed plans of buildings and premises where there may be special challenges for emergency operations. These pre-plans include information on the building's location, occupancy, hazards, fire department connections and hydrants, access, building layout, and other pertinent data that would assist the fire department in case of an emergency.

Section 202 is hereby amended by adding the definition of “Public Storage Facility” as follows:

PUBLIC STORAGE FACILITY. A public storage facility shall mean any business that sells, leases or rents space to the public, whether it is a building, storage container or similar configuration.

Section 202 is hereby amended by adding the definition of “Substantial Remodel” as follows:

SUBSTANTIAL REMODEL. Substantial remodel shall mean the alteration of any structure which combined with any additions to the structure, performed within any three (3) year period, affects a floor area which exceeds fifty percent (50%) of the existing floor area of the structure. When any changes are made in the building, such as walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for purposes of applying this definition. This definition does not apply to the replacement and upgrading of residential roof coverings or exterior wall finishes.

Section 202 is hereby amended by adding the definition of “Temporary” as follows:

TEMPORARY. Temporary shall mean any occupancy, activity, or use for a period of less than one hundred eighty (180) days.

Section 304.1.2 is hereby amended to read as follows:

304.1.2 Vegetation. At the direction of the Fire Chief to reduce the fire hazard, weeds, grass, vines, brush, trees, or other growth that is capable of being ignited and endangering public or private property, a fire apparatus access road, a public thoroughfare, or a railroad, shall be cut and mulched or removed by the owner or occupant of the premises or by the responsible public agency in accordance with 304.1.2.1 and 304.1.2.2.

304.1.2.1 Vegetation clearance. Vegetation located within ten (10) feet of the outlet of a chimney or stove pipe shall be cut and mulched or removed. Vegetation located within one hundred (100) feet of a building shall be cut and mulched or removed. Vegetation located within ten (10) feet of a fire apparatus access road, a public thoroughfare, or a railroad shall be cut and mulched or removed. The minimum clearances specified above may be increased by the Fire Chief where there may be special challenges for emergency operations.

304.1.2.2 Wildland-Urban Interface areas. Vegetation clearance requirements in Wildland-Urban Interface areas shall be in accordance with Chapter 49 of this code and San Rafael Municipal Code Chapter 4.12.

Section 307.4.2 is hereby amended to read as follows:

307.4.2 Recreational Fires. Recreational fires within the jurisdiction limits of the City are subject to Sections 307.4.2.1 through 307.4.2.4.

307.4.2.1 City property. Recreational fires are prohibited on City owned property.

Exception: Where a Fire Permit is issued in accordance with Section 105.6.30.

307.4.2.2 Wildland-Urban interface properties. Recreational fires are prohibited in Wildland-Urban Interface areas as designated in San Rafael Municipal Code Section 4.12.010.

Exception: Where a Fire Permit is issued in accordance with Section 105.6.30.

307.4.2.3 Other properties. For all properties other than those identified in Section 307.4.2.1 and 307.4.2.2 above, recreational fires shall be conducted in compliance with all of the following:

307.4.2.3.1. Recreational fires shall be conducted in accordance with applicable Fire Prevention Standards;

307.4.2.3.2. Recreational fires shall not be conducted within 25 feet of a structure or combustible materials;

307.4.2.3.3. Conditions which could cause a fire to be spread within 25 feet of a structure shall be eliminated prior to ignition;

307.4.2.3.4. Recreational fires shall be conducted under the constant supervision and control of the Owner or tenant of the property;

307.4.2.3.5. A charged portable fire extinguisher with a minimum capacity of 4-A, or a charged garden hose, shall be available for use at the location of the recreational fire.

307.4.2.3.6. Upon completion of use, the Owner or tenant of the property shall ensure the recreational fire is completely extinguished prior to leaving the recreational fire unattended.

307.4.2.4 Fire Department Response. Where the Fire Department responds to the location of a recreational fire, the Fire Department Officer in charge of the response is authorized to extinguish the fire for non-compliance with Section 307.4.2, any Fire Permit that has been issued, or the applicable Fire Prevention Standards, or where the recreational fire is a fire hazard.

Section 307.4.3 is hereby modified by deleting the exception.

Section 308.1.2 is hereby amended to add the following concluding sentence:

Smoking is prohibited within all Parks as defined in San Rafael Municipal Code Section 8.10.015 and Open Space areas as defined in San Rafael Municipal Code Section 19.10.020, located within jurisdiction limits.

Section 320 is hereby added as follows:

Section 320 Fireworks

320.1 Fireworks prohibited. Except where a Fire Permit is issued in accordance with Section 105.6.14, Section 105.6.36, or Section 105.6.40 of the Fire Code, the manufacture, storage, sale, possession, handling, or use of any fireworks as defined in Section 202, is prohibited within jurisdiction limits.

320.2 Seizure. The Fire Chief shall seize, remove or cause to be removed, at the expense of the owner or person in possession, all stocks of fireworks offered or exposed for sale, stored, used or held in violation of this code.

Section 408.1.1 is hereby added as follows:

408.1.1 Pre-plans. Pre-plans shall be developed for buildings and premises where there may be special challenges for emergency operations, as determined by the Fire Chief.

Section 503.1.2. is hereby amended by adding the following concluding sentence:

The Fire Chief is authorized to require additional fire apparatus access roads for all newly constructed vehicle parking areas and for all new or altered structures, facilities, uses, or hazards.

Section 503.1.4 is hereby added as follows:

503.1.4 Fire roads. Fire Roads shall be provided for firefighting equipment, apparatus and personnel to undeveloped areas of the City so as to gain access to improved, unimproved, and undeveloped areas in a manner approved by the Fire Chief. Any vehicle or other obstruction to Fire Department access may be towed away or removed at the owner's expense.

Section 503.2.3 is hereby amended to read as follows:

503.2.3 Surface. Except for fire roads, fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced with asphalt or concrete so as to provide all-weather driving capabilities.

Section 503.2.6.1 is hereby added as follows:

503.2.6.1 Load testing. Bridges, Piers and Wharfs used for fire apparatus access shall be load tested to the original designed capacity when required by the Fire Chief.

Section 503.4 is hereby amended by adding the following concluding sentence:

Any vehicle or other obstruction may be towed away or removed at the owner's expense.

Section 503.4.2 is hereby added as follows:

503.4.2 Prohibition on vehicular parking on private access ways. If, in the judgment of the Fire Chief, it is necessary to prohibit vehicular parking along private access ways serving existing facilities, buildings, or portions of buildings in order to keep them clear and unobstructed for fire apparatus access, the Fire Chief may issue an Order to the owner, lessee or other person in charge of the premises to paint the curbs red or install signs or other appropriate notices to the effect that parking is prohibited by Order of the Fire Department. From the effective date of the order, it shall be unlawful for such owner, lessee or other person in charge of the premises to fail to install, maintain in good condition, the form of notice so prescribed. When such areas are marked or signed as provided herein, no person shall park a vehicle adjacent to any such curb or in the private access way contrary to such markings or signs. Any vehicle so parked in the private access way may be towed away at the expense of the owner of the vehicle.

Section 505.1 is hereby amended to read as follows:

505.1 Address numbers. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. Numbers painted on the curb do not satisfy this requirement. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Said numbers shall be either internally or externally illuminated in all new construction or substantial remodels. Number sizes shall be as follows: Minimum of one-half-inch (1/2") stroke by four inches (4") high for residential applications, minimum one-half-inch (1/2") stroke by six inches (6") high for commercial applications. Larger sizes may be required by the Fire Chief based on distance from the street or road fronting the property. All buildings abutting on any public or private street,

avenue, drive, road, place or lane within the City shall be given and marked with an official address number. Where access is by means of a private way, a monument, or other sign may be required by the Fire Chief to identify the building. The Chief Building Official shall decide the proper number to be assigned to any building. Where required by the Fire Chief, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be maintained.

505.1.1 Multi-tenant buildings. Numbers or letters shall designate all separate occupancies within new or existing multi-tenant buildings. Size shall be minimum one-quarter-inch (1/4") stroke by two inches (2") high and on a contrasting background for tenant spaces accessed from an interior corridor, and as indicated in Section 505.1 for spaces with exterior access doors. In multi-story or larger buildings, directional address numbers or letters shall be provided at a central location. Said addresses or numbers shall be posted at a height no greater than 5 feet, 6 inches (5' - 6") above the finished floor and shall be either internally or externally illuminated in all new construction or substantial remodels.

505.1.2 Rear addressing. Where required by the Fire Chief, approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the fire apparatus road at the back of a property or where rear parking lots or alleys provide an acceptable vehicular access. Number stroke and size shall comply with Section 505.1.

Section 506.1 is hereby amended by adding the following concluding sentences:

506.1. Key Boxes. Except for single family dwellings, all buildings which have installed therein an automatic fire alarm system, automatic fire sprinkler system or a security gate, shall have an approved key box system installed. All facilities that are required to have Hazardous Materials Business Plans shall have an approved key box system installed. All electronic operated vehicular gates, including gates serving single family dwellings, shall have an approved key switch override system mounted on a stanchion or wall as approved by the Fire Chief.

Section 507.5.1.2 is hereby added as follows:

507.5.1.2 Fire hydrant upgrades. When additions or alterations to structures are made, the nearest existing fire hydrant shall be upgraded to the minimum standard of a Clow model 950, wet barrel type hydrant with one (1) four and one-half inch (4½") outlet and one (1) two and one-half inch (2½") outlet for single family dwellings, or for all other applications or structures to a Clow model 960, wet barrel type hydrant with one (1) four and one-half inch (4½") outlet and two (2) two and one-half inch (2½") outlets.

Exceptions 1: If the cost of upgrading the fire hydrant exceeds two percent (2%) of the cost of the project, based on the Building Permit valuation.

Exception 2: This section does not apply where an automatic fire sprinkler system is installed throughout the building.

Section 903.2 is hereby amended to read as follows:

903.2 Where Required; All Occupancies and Facilities. An automatic fire sprinkler system shall be installed in all of the following:

1. Every newly constructed, building or facility.

Exception: Freestanding structures not more than one thousand (1,000) square feet and provided with exterior wall and opening protection as per Table 602 of the Building Code.

2. Newly created, attached, second dwelling units which meet the definition of a substantial remodel.

3. All other existing buildings, where be required by the Fire Chief in accordance with the following:

i. All buildings where improvements occur during any three (3) year period which meet the definition of a substantial remodel.

ii. All buildings in excess of three thousand (3,000) square feet which have more than ten (10) percent floor area added within any three (3) year period.

iii. A change in the use of a building that results in a higher fire or life safety hazard when the square footage of the area changing use is more than fifty (50) percent of the square footage of the existing building.

iv. Where fire sprinklers are required by the provisions above, they shall be extended throughout the building.

4. All public storage facilities.

5. All tunnels used for the transportation of people or any type of vehicle.

The requirements for fire sprinklers in this code section are not meant to disallow the provisions for area increase, height increase, or fire-resistive-rated substitution if otherwise allowed by the Building Code or Residential Code.

Sections 903.2.1 through 903.2.17 remain the same.

Section 903.2.18 is hereby modified by deleting the exception.

Section 907.2.11.2.3 is amended to add the following concluding sentence:

“Replacement of existing smoke alarms which are hardwired and/or interconnected shall be made with an alarm of the same functionality.

Section 907.8.5.1 is hereby added as follows:

907.8.5.1 False and nuisance fire alarm – public nuisance. A protected premises fire alarm shall constitute a public nuisance if it actuates three (3) or more false or nuisance alarms within any calendar year. This section shall be effective thirty (30) days after fire alarm system installation is operational.

907.8.5.1.1 False alarm response fee. Where a protected premises fire alarm constitutes a public nuisance as specified in Section 907.8.5.1, the owner or lessee shall be responsible for the City's false and nuisance alarm response fees as specified in the Master Fee Schedule Resolution adopted by the City Council.

Section 1015.2 is amended by adding the following sentence to the end of the paragraph before the Exceptions:

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

Section 1015.8.2 and 1015.8.3 are added as follows:

1015.8.2 Existing Hotels. The provisions of sections 1015.8 shall apply retroactively to all existing hotels.

1015.8.3 Clear area adjacent to hotel window opening. There shall be no furniture, fixed or moveable, placed within thirty-six inches (36") of any openable portion of a window. Hotels shall also provide notice to prospective guests of this requirement.

Section 1030.3.1 is added as follows:

1030.3.1 Group I-2 Hospital Obstructions. In Group I-2 Hospitals, the required clear width for aisles, corridors and ramps that are part of the required means of egress shall comply with Section 1018.2. The facility shall have a plan to maintain the required clear width during emergency situations.

Exception: In areas required for bed movement, equipment shall be permitted in the required width where all the following provisions are met:

1. The equipment is low hazard and wheeled.
2. The equipment does not reduce the effective clear width for the means of egress to less than 5 feet (1525 mm).
3. The equipment is limited to:
 - 3.1 Equipment and carts in use;
 - 3.2 Medical emergency equipment;

- 3.3 Infection control carts; and
- 3.4 Patient lift and transportation equipment.
- 4. Medical emergency equipment and patient lift and transportation equipment, when not in use, is required to be located on one side of the corridor.
- 5. The equipment is limited in number to a maximum of one per patient sleeping room or patient care room within each smoke compartment.

Section 1103.8.1 is hereby amended by adding the following subsections, following the Exceptions:

A. On or after January 1, 1986, every single-family dwelling and factory-built housing, as defined in Health and Safety Code Section 19971, which is sold shall have operable smoke alarms installed. The smoke alarms shall be approved and listed by the State Fire Marshal and installed in accordance with section 907.2.11.2. Battery operated smoke alarms shall be deemed to satisfy the requirements of this section.

B. On or after January 1, 1993, every apartment building shall have installed a hardwired smoke alarm with battery back-up located within every dwelling unit. This smoke alarm shall be located outside of sleeping rooms and the primary power shall be from the building wiring, with no intervening switches other than the circuit breaker. The smoke alarm shall be approved and listed by the State Fire Marshal.

Section 1104.5.2 is added as follows:

1104.5.2 Change of ownership. Buildings, portions of buildings, or occupancies shall meet the requirements of Section 1104.5 upon a change of ownership.

Section 5704.3.3.11 is added as follows:

5704.3.3.11 Storage of flammable and combustible liquids and other hazardous materials. The storage of flammable or combustible liquids or other hazardous materials in public storage facilities is prohibited. Such facilities shall post legible and durable signs to indicate same in a manner and locations as specified by the Fire Chief. This section shall apply to new and existing public storage facilities.

Exception: Only those quantities of flammable and combustible liquids necessary for normal maintenance of the facility.

Appendix D103.5, Subsection 1 is hereby amended to read as follows:

D103.5, Subsection 1 Gate Opening Width. Except for a single one- or

two-family dwelling, the minimum unobstructed gate width shall be twenty (20) feet. For a single one- or two-family dwelling, the minimum unobstructed gate width shall be sixteen (16) feet, except where a narrower width is approved by the Fire Chief for exceptional circumstances.

4.08.130 Enforcement and penalties.

A. In addition to the enforcement powers and remedies provided in the Fire Code, the Fire Chief shall have the power to enforce the provisions of this code as provided in Chapters 1.40, 1.42, 1.44, and 1.46 .

B. Violations of the Fire Code as adopted in this code are misdemeanors/infractions and are subject to the penalties set forth in Section 1.42.010 of the San Rafael Municipal Code.

C. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue and all such persons shall be required to correct or remedy such violations or defects within a reasonable time and, when not otherwise specified each day that a violation occurs or continues, after a final notice has been delivered shall constitute a separate offense. The application of both penalties shall not be held to prevent the enforced correction of prohibited conditions.

D. Nothing contained in Subsections A through C of this Section shall be construed or interpreted to prevent the City from recovering all costs associated with a Fire Department response as described in Section 104.12 of the Fire Code.

E. Any violation of any provision of this code shall constitute a public nuisance, and shall entitle the City to collect the costs of abatement and related administrative costs, by a code enforcement assessment lien and special assessment pursuant to Section 1.46.160 of the San Rafael Municipal Code, or by a nuisance abatement lien and special assessment pursuant to Government Code Sections 38773.1 and 38773.5. Prior to recordation of such a lien or processing such a request for special assessment, the City shall give written notice to the record owner of the affected property. In addition, the City shall be entitled to collect such abatement costs and related administrative costs, together with litigation costs and attorneys' fees, in a civil action pursuant in Section 1.42.020 of the San Rafael Municipal Code.

4.08.140 Appeals.

A. Any person receiving a bill for Fire Department response costs and expenses pursuant to Section 104.12 of the Fire Code, may file within thirty (30) days after the date of mailing the bill, an administrative appeal against imposition of the civil penalty or response costs and expense. The appeal shall be in writing and filed with the Fire Chief, and shall include a copy of the bill and statement of the grounds for appeal. The Fire Chief shall conduct an administrative hearing

on the appeal, after giving the appellant at least ten (10) days' advance written notice of the time and place of the hearing. Within ten (10) days after the hearing, the Hearing Officer shall give written notice of the decision to the appellant, which decision shall be final. If the appeal is denied in part or full, all amounts due shall be paid within thirty (30) days after the mailing of the notice of the decision of the Hearing Officer.

B. Whenever the Fire Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Chief to the City Council within ten (10) days from the date of the decision. The provisions of this section shall not apply to corrective actions for the clearance of vegetative as specified in 304.1 through 304.1.2.2 of the Fire Code, or to matters for which an appeal is provided pursuant to 4.08.140(A) above.

DIVISION 2.

California Health and Safety Code Sections 17958.5, 17958.7, and 18941.5 require that findings be made in order to change or modify building standards found in the California Building Standards Code based on local climatic, geologic, or topographic conditions.

Therefore, the San Rafael City Council hereby finds that these changes or modifications to the Fire Code as adopted in Title 4 of the San Rafael Municipal Code are reasonably necessary because of the following local climatic, geological and topographical conditions:

I. Climatic conditions

- a. **Precipitation.** Most of the annual rainfall in San Rafael occurs during the winter; it receives no measurable precipitation between May and October. During this time, temperatures average between 70 and 90 degrees. These conditions eliminate most of the moisture in the natural vegetation and heavily wooded hillsides. The area also suffers periodic droughts that can extend the dry periods to other months of the year. These conditions can be further exacerbated by high off-shore winds, or hot, dry, inland winds.
- b. **Relative Humidity.** Humidity generally ranges from 50% during daytime to 86% at night. It drops to 20% during the summer months and occasionally drops lower typically at the most extreme periods of the wildland fire season.
- c. **Temperatures.** Temperatures have been recorded as high as 108 degrees F. Average summer highs are in the 75 degree to 90 degree range.
- d. **Winds.** Prevailing winds are from the northwest. However, winds are experienced from virtually every direction at one time or another. Velocities are generally in the 5 – 15 mph range, gusting to 30 mph, particularly during the summer months. Extreme winds, up to 50 mph, have been known to occur.

II. Geological conditions

- a. San Rafael lies near several earthquake faults, including the very active San Andreas Fault; there are significant potential hazards such as road closures, fires, collapsed buildings, and isolation of residents requiring assistance.
- b. Many areas of the City, including some highly developed industrial and commercial areas are located on bay alluvial soils which are subject to liquefaction in the event of an earthquake.

III. Topographical conditions

- a. Much of San Rafael is located in hilly areas, and many of the residential areas are heavily landscaped, and many exist adjacent to hilly open space areas which are characterized by dry vegetation and have limited access. In addition, the steepness of grades located in the hills and canyons results in narrow and winding roads, and limited water supply.
- b. The major arterial route between San Francisco and Marin and Sonoma county areas, Highway 101, bisects the City of San Rafael; should that highway become impassable, alternative routes via surface streets in San Rafael may cause heavy traffic congestion, limiting emergency access or delaying response.

More specifically, the above modified building standards are listed below with the corresponding climatic, geological or topographical condition which necessitates the modification, as follows:.

Section Number	Climatic, geological and topographical condition
1.11.2.1	Ia, IIa, IIIa, IIIb
102.5	Ia, Ib, Ic, Id, IIa, IIIa, IIIb
103.1	Ia, Ib, Ic, Id, IIa, IIb, IIIa, IIIb
104.12	Ia, Ib, IIa, IIb, IIIa, IIIb
104.13	Ia, IIb, IIc, IId, IIa, IIb, IIIa, IIIb
105.6.32	Ia, IIa, IIb, IIIa, IIIb
105..7.26	Ia, Ib, Ic, Id, IIa, IIb, IIIa, IIIb
110.4	Ia, Ib, IIa, IIb, IIIa, IIIb
111.4	Ia, Ib, IIa, IIb, IIIa, IIIb
113.2	Ia, IIa, IIIa
113.3	Ia, IIa, IIIa
113.6	Ia, IIa, IIIa
113.7	Ia, IIa, IIIa

202	la, lb, Ila, IId, IIIa, IIIb
304.1.2	la,lc, Id, Ila, IIIa, IIIb
307.4.2	la, lb, lc, Id, Ila, IIIa, IIIb
307.4.3	la, Ila, lc, Id, IId, IIIa, IIIb
310.8	la, Ila, IIIa, IIIb
320	la,1b, 1c, 1d, Ila, IIIa, IIIb
408.1.1	la, lb, Ila, IId, IIIa, IIIb
503.1.2	la, lb, Ila, IId, IIIa, IIIb
503.1.4	la, lb, Ila, IIIa
503.2.3	la, lb, Ila, IId, IIIa, IIIb
503.2.6.1	la, Ila, IId, IIIa
503.4	la, 1b, lc, Id, Ila, , IIIa
503.4.2	la, lb, Ila, IId, IIIa, IIIb
505.1	la,lb, lc, Id, Ila, IIIa, IIIb
506.1	la, Ila, lc, Id, IId, IIIa
507.5.1.2	la, IIIa, IIIb
903.2	la, Ila, IIIa,IIIb
903.2.18	la, Ila, IIIa
907.8.5.1	la, lb, Ila, IId, IIIa, IIIb
1013.2	lb, Ila
1029.6	Ila, IId, IIIb
1030.3.1	Ila, IId, IIIa, IIIb
1103.8.1	la, Ila, IIIa
1104.5.2	la, Ila, IIIa
5704.3.3.11	la, Ila, IIIb
Appendix D103.5	la, lb, lc, Id, Ila, IIIa, IIIb

DIVISION 3.

All former Ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance codified in this chapter or the Codes hereby adopted are hereby repealed.

DIVISION 4.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council of the City of San Rafael hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

DIVISION 5.

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to 14 CCR Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment.

DIVISION 6.

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 effective on January 1, 2020. 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.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the _____ day of _____, 2019 and ordered passed to print by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

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 _____ day of _____, 2019.

LINDSAY LARA, City Clerk

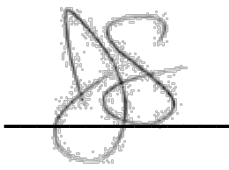


Agenda Item No: 4.f
Meeting Date: November 4, 2019

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Library and Recreation

Prepared by: Catherine Quffa,
Management Analyst

City Manager Approval: 

TOPIC: JANITORIAL SERVICES FOR THE DOWNTOWN LIBRARY, CHILD CARE CENTERS AND TERRA LINDA POOL RESTROOMS

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR AGREEMENT WITH TRINITY PUBLIC SECTOR SOLUTIONS TO PROVIDE JANITORIAL SERVICES AT THE DOWNTOWN LIBRARY, CHILD CARE CENTERS AND TERRA LINDA POOL RESTROOM IN AN AMOUNT NOT TO EXCEED \$90,000

RECOMMENDATION:
Adopt a resolution authorizing the City Manager to execute a one-year agreement with Trinity Public Sector Solutions to provide janitorial services at the Downtown Library, child care centers and Terra Linda pool restrooms in an amount not to exceed \$90,000.

BACKGROUND:
The Library and Recreation department manages a number of different facilities, including three community centers, Falkirk Cultural Center, the Downtown Library, two branch libraries, seven child care centers and two community pools. The approach to keeping these facilities clean and welcoming to the public varies across sites and includes full and part time staff as well as contract services. Currently, the City contracts for janitorial services at its Downtown Library, child care centers and the Terra Linda pool restroom. Contracting for janitorial services at these facilities has allowed the City to control costs while ensuring that the facilities remain clean and serviceable by the public.

ANALYSIS:
With the merger of the Library and Community Services departments into the Library and Recreation Department, the City is looking for opportunities to improve services and reduce expenses through increased efficiencies. Combining the janitorial contracts for the two divisions of the new department and soliciting bids for the larger contract has provided one opportunity to do so.

Through a formal bid process, the City received submissions from eight (8) different vendors for janitorial services for the Downtown Library, child care centers and Terra Linda pool restrooms. Of the bids received, Trinity Public Sector Solutions offered the best overall pricing package for the facilities included

FOR CITY CLERK ONLY

File No.: _____
Council Meeting: _____
Disposition: _____

in the bid. Additionally, Trinity provided references from clients that have facilities heavily used by the public. All references reported a positive experience with Trinity's service levels and responsiveness.

The bid submitted by Trinity of \$82,775 provides a savings to the department of \$9,793 annually for regular janitorial services over the department's current vendor annual cost of \$92,568. Additionally, Trinity's monthly service charge includes an annual deep clean of the child care facilities, which is not included in the City's contract with its current vendor. By awarding the contract for janitorial services to Trinity, the City will be reducing its expenses for janitorial services and increasing the service level. In addition to an annual deep clean at the child care facilities, the agreement includes daily full service after-hours cleaning and afternoon restroom cleaning for the Downtown Library, after-hours cleaning of all child care centers five (5) days a week, bi-weekly cleaning of the Terra Linda pool restrooms during aquatics season, monthly and quarterly services specific to each site, as well as emergency or additional as-needed cleaning services. Trinity is also responsible for providing all labor, supervision, chemicals and equipment. The contract is for an initial one-year term, with the option to extend for two (2) additional one-year terms.

FISCAL IMPACT:

The total cost of the janitorial services under this one-year contract will not exceed \$90,000, which includes \$83,000 per year for ongoing services and \$7,000 per year for additional or emergency services. This is a decrease from the cost for monthly janitorial services originally appropriated in the FY 2019-20 budget and includes emergency services, which were previously budgeted as additional to the monthly cost. As such, funds from the General Fund and Funds 208, 222 and 260 are appropriated sufficiently.

OPTIONS:

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

1. Adopt the resolution as proposed, approving the agreement with Trinity Public Sector Solutions.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt a resolution authorizing the City Manager to execute a one-year agreement with Trinity Public Sector Solutions to provide janitorial services at the Downtown Library, child care centers and Terra Linda pool restrooms in an amount not to exceed \$90,000.

ATTACHMENTS:

1. Resolution
2. Agreement with Trinity Public Sector Solutions

RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO EXECUTE A ONE-YEAR AGREEMENT WITH TRINITY PUBLIC
SECTOR SOLUTIONS TO PROVIDE JANITORIAL SERVICES AT THE DOWNTOWN
LIBRARY, CHILD CARE CENTERS AND TERRA LINDA POOL RESTROOM IN AN AMOUNT
NOT TO EXCEED \$90,000**

WHEREAS, the City of San Rafael requires janitorial services for its Downtown Library, child care centers and the Terra Linda pool restrooms; and

WHEREAS, these janitorial services provide a necessary service to the community to ensure the cleanliness and usability of City assets for community members who are using City facilities and services; and

WHEREAS, Trinity Public Sector Solutions and has the capacity and expertise to provide these services to the City; and

WHEREAS, the City desires to employ Trinity Public Sector Solutions to provide such services and Trinity Public Sector Solutions is willing and able to provide said services.

NOW, THEREFORE BE IT RESOLVED, that the City Council hereby authorizes the City Manager to execute an agreement with Trinity Public Sector Solutions to provide janitorial services at the Downtown Library, child care centers and Terra Linda pool restrooms for a term of one year, in an amount not to exceed \$90,000, subject to final approval as to form by the City Attorney.

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 City Council of the City of San Rafael, held on Monday, the 4th day of November 2019, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

AGREEMENT

FOR JANITORIAL SERVICES FOR THE LIBRARY AND RECREATION DEPARTMENT

This Agreement is made and entered into this _____ day of _____, 2019, by and between the CITY OF SAN RAFAEL (hereinafter "**CITY**"), and TRINITY PUBLIC SECTOR SOLUTIONS, a corporation authorized to do business in California (hereinafter "**CONTRACTOR**").

RECITALS

WHEREAS, the **CITY** operates the Downtown San Rafael Public Library, seven (7) child care facilities and the Terra Linda Community Center Pool restrooms; and

WHEREAS, the **CITY** is in need of cleaning services for the above mentioned facilities; and

WHEREAS, the **CONTRACTOR** has the expertise required to provide such services and is willing to do so on the terms and conditions set forth in this Agreement;

AGREEMENT

NOW, THEREFORE, the parties hereby agree as follows:

1. **PROJECT COORDINATION.**

A. **CITY'S Project Manager.** The Library and Recreation Director is hereby designated the PROJECT MANAGER for the **CITY**, and said PROJECT MANAGER shall supervise all aspects of the progress and execution of this Agreement.

B. **CONTRACTOR'S Project Director.** **CONTRACTOR** shall assign a single PROJECT DIRECTOR to have overall responsibility for the progress and execution of this Agreement for **CONTRACTOR**. James E. Jones IV is hereby designated as the PROJECT DIRECTOR for **CONTRACTOR**. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute PROJECT DIRECTOR, for any reason, the **CONTRACTOR** shall notify the **CITY** within ten (10) business days of the substitution.

2. **DUTIES OF CONTRACTOR.**

CONTRACTOR shall perform the duties and/or provide services as specified in Exhibit A, titled Library and Recreation Janitorial Services Scope of Work.

3. **DUTIES OF CITY.**

CITY shall pay the compensation as provided in Paragraph 4, and perform the duties as specified in Exhibit A, titled Library and Recreation Janitorial Services Scope of Work.

4. COMPENSATION.

For the full performance of the services described herein by **CONTRACTOR**, **CITY** shall pay **CONTRACTOR** as follows:

Facility	Cost per Month (including labor, material and equipment)
Downtown Library (1100 E St. San Rafael)	\$2,053.80
Terra Linda Community Center Pool Restrooms (670 Del Ganado, San Rafael)	\$342.73
Coleman Childcare Portable (800 Belle Ave, San Rafael)	\$549.80
Lucas Valley Childcare Portable (1175 Idylberry Rd, San Rafael)	\$549.80
Glenwood Childcare Portable (25 W Castlewood Dr, San Rafael)	\$549.80
Mary Silveira Childcare Portable (375 Blackstone Dr, San Rafael)	\$549.80
Parkside Childcare Center (51 Albert Park Lane, San Rafael)	\$1,373.98
Pickleweed Childcare Center (40 Canal Street, San Rafael)	\$549.80
Vallecito Childcare Portable (50 Nova Albion Way, San Rafael)	\$549.80

The monthly service cost is based upon a full service schedule, as outlined in Exhibit A. If facilities are closed and janitorial services are subsequently reduced, the monthly cost will be prorated based on the reduced service hours. Additional services beyond the scope included in Exhibit A shall be charged at a rate of \$33.69 per hour for additional work performed during the regular service schedule, \$53.25 per hour for additional deep cleaning services and \$60 per hour for emergency services.

The total compensation payable for services under this agreement shall not exceed \$83,000 per year for services included in Exhibit A and \$7,000 per year for additional or emergency services, for a total not to exceed amount of \$90,000 per year. Payment will be made monthly upon receipt by PROJECT MANAGER of itemized invoices submitted by **CONTRACTOR**.

5. TERM OF AGREEMENT.

The term of this Agreement shall be for one (1) year commencing on January 1, 2020 and ending on December 31, 2020. Upon mutual agreement of the parties, and subject to the approval of the City Manager the term of this Agreement may be extended for an additional period of up to two (2) additional one (1) year terms.

6. TERMINATION.

A. **Discretionary.** Either party may terminate this Agreement without cause upon thirty (30) days written notice mailed or personally delivered to the other party.

B. **Cause.** Either party may terminate this Agreement for cause upon fifteen (15) days written notice mailed or personally delivered to the other party, and the notified party's failure to cure or correct the cause of the termination, to the reasonable satisfaction of the party giving such notice, within such fifteen (15) day time period.

C. **Effect of Termination.** Upon receipt of notice of termination, neither party shall incur additional obligations under any provision of this Agreement without the prior written consent of the other.

D. **Return of Documents.** Upon termination, any and all **CITY** documents or materials provided to **CONTRACTOR** and any and all of **CONTRACTOR's** documents and materials prepared for or relating to the performance of its duties under this Agreement, shall be delivered to **CITY** as soon as possible, but not later than thirty (30) days after termination.

7. INSPECTION AND AUDIT.

Upon reasonable notice, **CONTRACTOR** shall make available to **CITY**, or its agent, for inspection and audit, all documents and materials maintained by **CONTRACTOR** in connection with its performance of its duties under this Agreement. **CONTRACTOR** shall fully cooperate with **CITY** or its agent in any such audit or inspection.

8. ASSIGNABILITY.

The parties agree that they shall not assign or transfer any interest in this Agreement nor the performance of any of their respective obligations hereunder, without the prior written consent of the other party, and any attempt to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

9. INSURANCE.

A. **Scope of Coverage.** During the term of this Agreement, **CONTRACTOR** shall maintain, at no expense to **CITY**, the following insurance policies:

1. A commercial general liability insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate, for death, bodily injury, personal injury, or property damage.

2. An automobile liability (owned, non-owned, and hired vehicles) insurance policy in the minimum amount of one million dollars (\$1,000,000) dollars per occurrence.

3. If it employs any person, **CONTRACTOR** shall maintain worker's compensation insurance, as required by the State of California, with statutory limits, and employer's liability insurance with limits of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease. **CONTRACTOR's** worker's compensation insurance shall be specifically endorsed to waive any right of subrogation against **CITY**.

B. Other Insurance Requirements. The insurance coverage required of the **CONTRACTOR** in subparagraph A of this section above shall also meet the following requirements:

1. Except for professional liability insurance or worker's compensation insurance, the insurance policies shall be specifically endorsed to include the **CITY**, its officers, agents, employees, and volunteers, as additional insureds (for both ongoing and completed operations) under the policies.

2. The additional insured coverage under **CONTRACTOR'S** insurance policies shall be "primary and non contributory" with respect to any insurance or coverage maintained by **CITY** and shall not call upon **CITY's** insurance or self-insurance coverage for any contribution. The "primary and noncontributory" coverage in **CONTRACTOR'S** policies shall be at least as broad as ISO form CG20 01 04 13.

3. Except for professional liability insurance or worker's compensation insurance, the insurance policies shall include, in their text or by endorsement, coverage for contractual liability and personal injury.

4. By execution of this Agreement, **CONTRACTOR** hereby grants to **CITY** a waiver of any right to subrogation which any insurer of **CONTRACTOR** may acquire against **CITY** by virtue of the payment of any loss under such insurance. **CONTRACTOR** agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not **CITY** has received a waiver of subrogation endorsement from the insurer.

5. If the insurance is written on a Claims Made Form, then, following termination of this Agreement, said insurance coverage shall survive for a period of not less than five years.

6. The insurance policies shall provide for a retroactive date of placement coinciding with the effective date of this Agreement.

7. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of **CITY** (if agreed to in a written contract or agreement) before **CITY'S** own insurance or self-insurance shall be called upon to protect it as a named insured.

8. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to CITY or any other additional insured party. Furthermore, the requirements for coverage and limits shall be: (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the **CONTRACTOR** under this agreement.

C. **Deductibles and SIR's.** Any deductibles or self-insured retentions in **CONTRACTOR's** insurance policies must be declared to and approved by the PROJECT MANAGER and City Attorney, and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or **CITY** or other additional insured party. At **CITY's** option, the deductibles or self-insured retentions with respect to **CITY** shall be reduced or eliminated to **CITY's** satisfaction, or **CONTRACTOR** shall procure a bond guaranteeing payment of losses and related investigations, claims administration, attorney's fees and defense expenses.

D. **Proof of Insurance.** **CONTRACTOR** shall provide to the PROJECT MANAGER or **CITY'S** City Attorney all of the following: (1) Certificates of Insurance evidencing the insurance coverage required in this Agreement; (2) a copy of the policy declaration page and/or endorsement page listing all policy endorsements for the commercial general liability policy, and (3) excerpts of policy language or specific endorsements evidencing the other insurance requirements set forth in this Agreement. **CITY** reserves the right to obtain a full certified copy of any insurance policy and endorsements from **CONTRACTOR**. Failure to exercise this right shall not constitute a waiver of the right to exercise it later. The insurance shall be approved as to form and sufficiency by PROJECT MANAGER and the City Attorney.

10. INDEMNIFICATION.

A. **CONTRACTOR** shall, to the fullest extent permitted by law, indemnify, release, defend with counsel approved by **CITY**, and hold harmless **CITY**, its officers, agents, employees and volunteers (collectively, the "**City Indemnitees**"), from and against any claim, demand, suit, judgment, loss, liability or expense of any kind, including but not limited to attorney's fees, expert fees and all other costs and fees of litigation, (collectively "**CLAIMS**"), arising out of **CONTRACTOR'S** performance of its obligations or conduct of its operations under this Agreement. The **CONTRACTOR's** obligations apply regardless of whether or not a liability is caused or contributed to by the active or passive negligence of the **City Indemnitees**. However, to the extent that liability is caused by the active negligence or willful misconduct of the **City Indemnitees**, the **CONTRACTOR's** indemnification obligation shall be reduced in proportion to the **City Indemnitees'** share of liability for the active negligence or willful misconduct. In addition, the acceptance or approval of the **CONTRACTOR's** work or work product by the **CITY** or any of its directors,

officers or employees shall not relieve or reduce the **CONTRACTOR**'s indemnification obligations. In the event the **City Indemnitees** are made a party to any action, lawsuit, or other adversarial proceeding arising from **CONTRACTOR'S** performance of or operations under this Agreement, **CONTRACTOR** shall provide a defense to the **City Indemnitees** or at **CITY'S** option reimburse the **City Indemnitees** their costs of defense, including reasonable attorneys' fees, incurred in defense of such claims.

B. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement, and shall survive the termination or completion of this Agreement for the full period of time allowed by law.

11. NONDISCRIMINATION.

CONTRACTOR shall not discriminate, in any way, against any person on the basis of age, sex, race, color, religion, ancestry, national origin or disability in connection with or related to the performance of its duties and obligations under this Agreement.

12. COMPLIANCE WITH ALL LAWS.

CONTRACTOR shall observe and comply with all applicable federal, state and local laws, ordinances, codes and regulations, in the performance of its duties and obligations under this Agreement. **CONTRACTOR** shall perform all services under this Agreement in accordance with these laws, ordinances, codes and regulations. **CONTRACTOR** shall release, defend, indemnify and hold harmless **CITY**, its officers, agents and employees from any and all damages, liabilities, penalties, fines and all other consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

13. NO THIRD PARTY BENEFICIARIES.

CITY and **CONTRACTOR** do not intend, by any provision of this Agreement, to create in any third party, any benefit or right owed by one party, under the terms and conditions of this Agreement, to the other party.

14. NOTICES.

All notices and other communications required or permitted to be given under this Agreement, including any notice of change of address, shall be in writing and given by personal delivery, or deposited with the United States Postal Service, postage prepaid, addressed to the parties intended to be notified. Notice shall be deemed given as of the date of personal delivery, or if mailed, upon the date of deposit with the United States Postal Service. Notice shall be given as follows:

TO **CITY**'s Project Manager:

Susan Andrade-Wax
City of San Rafael
618 B Street
San Rafael, CA 94901

TO **CONTRACTOR**'s Project Director:

James E. Jones IV
Trinity Public Sector Solutions
430 North Canal #2
South San Francisco, CA 94080

15. INDEPENDENT CONTRACTOR.

For the purposes, and for the duration, of this Agreement, **CONTRACTOR**, its officers, agents and employees shall act in the capacity of an Independent Contractor, and not as employees of the **CITY**. **CONTRACTOR** and **CITY** expressly intend and agree that the status of **CONTRACTOR**, its officers, agents and employees be that of an Independent Contractor and not that of an employee of **CITY**.

16. ENTIRE AGREEMENT -- AMENDMENTS.

A. The terms and conditions of this Agreement, all exhibits attached, and all documents expressly incorporated by reference, represent the entire Agreement of the parties with respect to the subject matter of this Agreement.

B. This written Agreement shall supersede any and all prior agreements, oral or written, regarding the subject matter between the **CONTRACTOR** and the **CITY**.

C. No other agreement, promise or statement, written or oral, relating to the subject matter of this Agreement, shall be valid or binding, except by way of a written amendment to this Agreement.

D. The terms and conditions of this Agreement shall not be altered or modified except by a written amendment to this Agreement signed by the **CONTRACTOR** and the **CITY**.

E. If any conflicts arise between the terms and conditions of this Agreement, and the terms and conditions of the attached exhibits or the documents expressly incorporated by reference, the terms and conditions of this Agreement shall control.

17. SET-OFF AGAINST DEBTS.

CONTRACTOR agrees that **CITY** may deduct from any payment due to **CONTRACTOR** under this Agreement, any monies which **CONTRACTOR** owes **CITY** under any ordinance, agreement, contract or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks or other amounts.

18. WAIVERS.

The waiver by either party of any breach or violation of any term, covenant or condition of this Agreement, or of any ordinance, law or regulation, shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, law or regulation, or of any subsequent breach or violation of the same or other term, covenant, condition, ordinance, law or regulation. The subsequent acceptance by either party of any fee, performance, or other consideration which may become due or owing under this Agreement, shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, condition, covenant of this Agreement or any applicable law, ordinance or regulation.

19. COSTS AND ATTORNEY'S FEES.

The prevailing party in any action brought to enforce the terms and conditions of this Agreement, or arising out of the performance of this Agreement, may recover its reasonable costs (including claims administration) and attorney's fees expended in connection with such action.

20. CITY BUSINESS LICENSE / OTHER TAXES.

CONTRACTOR shall obtain and maintain during the duration of this Agreement, a **CITY** business license as required by the San Rafael Municipal Code **CONTRACTOR** shall pay any and all state and federal taxes and any other applicable taxes. **CITY** shall not be required to pay for any work performed under this Agreement, until **CONTRACTOR** has provided **CITY** with a completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification).

21. SURVIVAL OF TERMS.

Any terms of this Agreement that by their nature extend beyond the term (or termination) of this Agreement shall remain in effect until fulfilled, and shall apply to both Parties' respective successors and assigns.

22. APPLICABLE LAW.

The laws of the State of California shall govern this Agreement.

23. COUNTERPARTS AND ELECTRONIC SIGNATURE.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one document. Counterpart signature pages may be delivered by telecopier, email or other means of electronic transmission.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day, month and year first above written.

CITY OF SAN RAFAEL

JIM SCHUTZ, City Manager

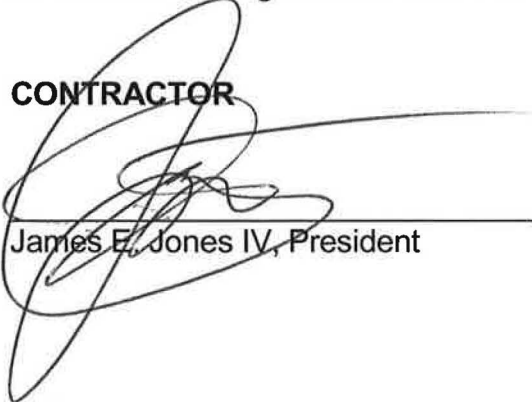
ATTEST:

LINDSAY LARA, City Clerk

APPROVED AS TO FORM:

ROBERT F. EPSTEIN, City Attorney

CONTRACTOR



James E. Jones IV, President

[If Contractor is a corporation, add signature of second corporate officer]

By: _____

Name: _____

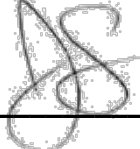
Title: _____



Agenda Item No: 4.g
Meeting Date: November 4, 2019

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Clerk

Prepared by: Lindsay Lara, City Clerk **City Manager Approval:** 

TOPIC: TERMINATION OF LOCAL EMERGENCY

SUBJECT: RESOLUTION PROCLAIMING THE TERMINATION OF A LOCAL EMERGENCY

RECOMMENDATION:
Adopt a Resolution proclaiming the termination of a local emergency.

BACKGROUND:
Pursuant to Government Code section 8630 and City of San Rafael Municipal Code Section 7.12.020 the City Manager/Director of Emergency Services issued a proclamation of local emergency due to the conditions created by PG&Es de-energizing the electrical system in the San Rafael, severe weather event, and the associated impacts to public safety and service delivery on Saturday, October 26, 2019. On Tuesday, October 29, 2019, the City Council held an emergency City Council meeting to modify and ratify the proclamation of existence of a local emergency.

On October 30, 2019 at approximately 1:30 a.m., power was fully restored to San Rafael and as of October 30, 2019 at 10:00am, staff was still working in the Emergency Operations Center (EOC) as Disaster Service Workers to demobilize the EOC, charging stations, call center, and other response operations.

Adoption of the recommended resolution proclaims the termination of a local emergency.

FISCAL IMPACT:
There is no fiscal impact associated with this item.

- OPTIONS:**
The City Council has the following options to consider on this matter:
1. Adopt the resolution
 2. Adopt resolution with modifications.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

3. Do not adopt the resolution.

RECOMMENDED ACTION:

Adopt a Resolution proclaiming the termination of a local emergency.

ATTACHMENTS:

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL, COUNTY OF MARIN, STATE OF CALIFORNIA, PROCLAIMING THE TERMINATION OF A LOCAL EMERGENCY

WHEREAS, a local emergency presently exists in the City of San Rafael, in accordance with the proclamation issued by the director of Emergency Services for the City of San Rafael on October 26, 2019, ratified by Resolution of the City Council on October 29, 2019, as a result of conditions of extreme peril to the safety of persons and/or property caused by the October 26, 2019 PG&E Public Safety Power Shutoff (PSPS); and,

WHEREAS, the situation resulting from said conditions of extreme peril are now deemed to be within the control of the normal protective services, personnel, equipment, and facilities of and within the City of San Rafael.

NOW, THEREFORE, BE IT HEREBY PROCLAIMED that the City of San Rafael does hereby proclaim the termination of said local emergency effective November 5, 2019.

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 City Council of the City of San Rafael, held on Monday, the 4th day of November 2019, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development
Paul A. Jensen
Prepared by: Paul Jensen (EG), Community Development Director
City Manager Approval: *[Signature]*

TOPIC: SHORT-TERM RENTAL ORDINANCE AND POLICY RESOLUTION

SUBJECT: CONSIDERATION OF AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING SECTION 14.03.030 AND SECTION 3.20.020 OF THE SAN RAFAEL MUNICIPAL CODE, AND ADDING NEW CHAPTER 10.110 ENTITLED "SHORT-TERM RENTAL PROGRAM;" AND RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL ADOPTING POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF THE "SHORT-TERM RENTAL PROGRAM" AS SET FORTH IN SAN RAFAEL MUNICIPAL CODE CHAPTER 10.110

RECOMMENDATION:

- 1. Conduct a public hearing introducing an ordinance amending San Rafael Municipal Code Section 14.03.030 and Section 3.20.020, and adding new Chapter 10.110 entitled "Short-Term Rental Program" and pass the ordinance to print.
- 2. Adopt a resolution establishing the policies and procedures for the Short-Term Rental Program.

EXECUTIVE SUMMARY:

As follow-up to an [informational report](#) presented to the San Rafael City Council on August 5, 2019, staff was directed to return to the City Council with a draft ordinance for City Council consideration that creates a Short-Term Rental program with the minimal and moderate enforcement recommendations included in the August 5, 2019 staff report. Staff has proposed two documents in this report for City Council consideration that are necessary to develop a Short-Term Rental Program:

- 1. Ordinance of the City of San Rafael City Council Amending Section 14.03.030 and Section 3.20.020 and Adding New Chapter 10.110 Entitled "Short-term Rental Program" - This proposed ordinance amends the municipal code and creates the Short-Term Rental Program (Attachment 1).
- 2. Resolution of the City of San Rafael City Council Adopting Policies and Procedures for the Administration of the 'Short-Term Rental Program' as set forth in San Rafael Municipal Code Chapter 10.110- This proposed resolution provides the policies and procedures outlining the program regulations for the Short-Term Rental Program (Attachment 2)

FOR CITY CLERK ONLY

File No.: _____
Council Meeting: _____
Disposition: _____

The establishment of a Short-Term Rental Program through the proposed ordinance and resolution in this staff report will have a fiscal impact on the City. Staff estimates first-year program costs of approximately \$41,000 and ongoing program costs of approximately \$33,000 annually. Staff estimates cost-recovering program fees of \$170 per short-term rental for initial registrations and \$135 per short-term rental for annual renewals. Staff estimates transient occupancy tax (TOT) revenue ranging from approximately \$18,000 to \$105,000 annually, with an average of approximately \$39,000 annually.

BACKGROUND:

At present, the City of San Rafael does not prohibit, regulate, tax or enforce short-term rentals. In 2011, as part of the review of the Junior Dwelling Unit (JDU) ordinance, the City Council directed staff to monitor short-term rental activity. Currently, there are 270 active short-term rentals in San Rafael.

On August 5, 2019, staff presented an informational report providing additional analysis and overview of the community outreach associated with the development of a potential Short-Term Rental (STR) ordinance for the City of San Rafael. This report also provided a summary of the Community Survey findings regarding support for STR regulations. Included within this report was a draft ordinance for STR regulation in San Rafael similar to the minimal regulation model administered in the City of Mill Valley. This minimal regulation model requires registration, fee payment, and TOT remittance only. The report provided additional policy elements utilized by other jurisdictions in which there is not clear direction existing in the San Rafael Municipal Code (SRMC).

Following public feedback and City Council discussion, staff was directed to return with a draft ordinance for City Council consideration that creates a Short-Term Rental program with the minimal and moderate enforcement recommendations included in the August 5, 2019 staff report. The City Council also directed staff to consider the following additional elements to be included in the draft ordinance:

- Potential regulations for STRs on properties with shared driveways
- Regulations allowing travel trailers under certain specific conditions like those presented in the staff report
- Regulations aimed at restricting “party houses”
- Program guidelines outlining a three-strike system or other system to address so that problem locations could lose their right to act as a STR.

Staff has prepared this report to provide further analysis of these additional elements as well as present for introduction a proposed ordinance and resolution creating a Short-Term Rental Program and outlining the program requirements and procedures.

ANALYSIS:

A. Properties with Shared Vehicle Access

Based upon City Council direction at the August 5, 2019 meeting, staff considered potential regulations for short-term rentals on properties where vehicle access is shared with another contiguous property. As part of this consideration, staff discussed shared access conditions with several parties that have filed complaints with the City or have been the subject of such complaints.

Staff first reviewed regulations in other jurisdictions to identify potential best practices. Staff could not find regulations specifically regulating properties with shared vehicle access. Rather, most jurisdictions include requirements for adequate on-site parking and host-provided materials educating potential renters on vehicle access and parking locations.

Staff next reviewed the main types of shared vehicle access on properties within San Rafael. Staff identified two main types of shared vehicle access:

- 1) **Shared Entrance-** Multiple properties share a main entrance way to the property, but the vehicle parking and maneuvering area is separate for each property. Within this shared access type, staff identified two main designs: Y-Shape (Figure 1.A) and a Comb-Shape (Figure 1.B)

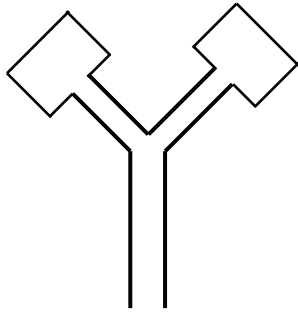


Figure 1.A- Y-Shape Shared Entrance

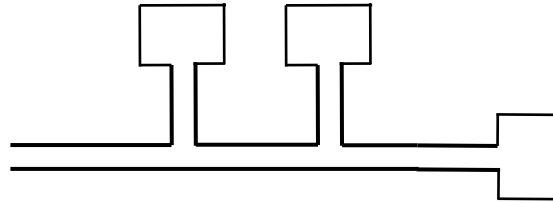


Figure 1.B- Comb-Shape Shared Entrance

- 2) **Shared Vehicle Maneuvering Area-** Multiple properties share a main entrance way as well as shared vehicle maneuvering area. Within this shared access type, staff identified two main designs: Shared Driveway and Parking Area shared between two or more single-family lots (Figure 2.A) and Parking Lots for Multifamily properties (Figure 2.B)

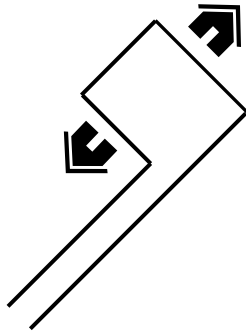


Figure 2.A- Shared Driveway and Parking Area

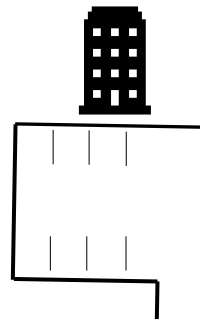


Figure 2.B- Parking Lots for Multifamily Properties

Next, staff reviewed the approximately 270 active short-term rental listings over the last year in San Rafael and identified listings with shared vehicle access. Of these 270 listings, staff identified 41 listings on properties with shared vehicle access. The vast majority of the listings, 29, were on multifamily properties with parking lots. Eight listings were on properties with a comb-shaped shared entrance. Properties with Y-Shaped shared entrances and Shared Driveway and Parking Areas each had two listings.

As part of this review, staff also looked at existing agreements or easements in place for these properties. Staff found in nearly all cases there were existing recorded easements, approved maneuvering diagrams, or agreements to address use of these shared access areas. These existing agreements are often either attached to the property themselves as part of the deed or have been developed between neighbors. In the case of multifamily properties, often shared parking and maneuvering is inherent to the property. Parking and maneuvering conditions are often included as part of a lease agreement or a separate parking rental agreement.

Discussion

As described in previous reports to the City Council, the Community Development Department has received few complaints regarding short-term rentals. For complaints associated with shared vehicle

access, often the concern is that additional guests will restrict parking and driveway access. However, in most instances, conditions surrounding parking and driveway access on these properties are already addressed through agreements and recorded easements described above.

Staff has included in the proposed resolution outlining the program requirements restrictions on the number of vehicles permitted for short-term rental use. For properties with shared vehicle access, the designated off-street parking spaces would need to follow the agreements and variances attached to the property.

Staff has also included as part of the program requirements the submittal of a Parking Plan for properties with shared vehicle access. This requirement is to ensure appropriate variances and/or agreements are in-place. The Parking Plan would require documentation showing the existence of agreements or variances as part of the registration process. Additionally, the Parking Plan would require instructions for guests of the proposed short-term rental outlining the location of designated off-street parking spaces and instructions for maintaining clear access to shared maneuvering areas. Finally, the program requirements explicitly state that blocked access of the shared maneuvering areas or guests parking outside of the design off-street spaces may be considered program violations subject to the three-strikes rules described in the *Proposed Resolution- Program Policies and Procedures* section of this report.

B. Travel Trailers

At the August 5 City Council meeting, staff was asked to consider potential program regulations allowing non-motorized travel trailers, including camp trailers and fifth-wheel trailers, to be used as short-term rentals. Currently, staff recommends not allowing non-motorized travel trailers to be eligible for short-term rental use. This recommendation is based off a review of existing state laws and regulations on manufactured homes.

Currently, California laws and regulations establish minimum design and construction standards for manufactured homes.¹ These laws and regulations are intended to ensure fire and life safety standards for permanent residence of these properties comparable to a permanent structure. These standards do not apply to Recreational Vehicles (RVs), including non-motorized camp trailers and fifth-wheel trailers, as these structures are designed to accommodate the temporary use. As such, these structures are not manufactured to the same egress, electrical, or sewage standards necessary for permanent use. Staff is concerned that these differing standards would make it difficult to ensure the ongoing life and fire safety of RVs, given their relatively transient functionality.

Additionally, [San Rafael Municipal Code \(SRMC\) Chapter 8.30- Vehicles Use for Human Habitation](#) maintains that trailers, campers or RVs may be used for sleeping purposes only (no use of cooking or sanitary facilities) for up to three successive nights in a 90-day period, providing it is parked to the rear of the house and at least 5 feet from the property line or 10 feet to any building. Staff is concerned that allowing Travel Trailers to be used as short-term rentals would set a precedent that would conflict with the SRMC.

C. Party Houses

As discussed during August 5 City Council Meeting, as part of the ongoing development of a potential STR program, staff has developed communication channels with Airbnb to promptly report and address potential STR listings being operated as "Party Houses."

¹ <http://www.hcd.ca.gov/building-standards/manufactured-modular-factory-built/manufactured-home-laws-regulations.shtml>

In addition to the proposed STR program enforcement procedures outlined in the *Short-Term Rental Program Ordinance and Resolution* section, representatives from Airbnb have also confirmed they can be contacted directly or through their “Airbnb Neighbor Tool” to file any additional complaints. This process would be in addition to complaints filed through the 24/7 Complaint Hotline provided by Host Compliance and could be utilized from problems requiring more immediate remedy.

D. Short-Term Rental Program Ordinance and Resolution

Staff has proposed two documents in this report for City Council consideration that are necessary to develop a Short-Term Rental Program:

1. Ordinance of the City of San Rafael City Council Amending Section 14.03.030 and Section 3.20.020 of the San Rafael Municipal Code and adding new Chapter 10.110 entitled “Short-term Rental Program” (Attachment A)
2. Resolution of the San Rafael City Council Adopting Policies and Procedures for the Administration of the ‘Short-Term Rental Program’ as set forth in San Rafael Municipal Code Chapter 10.110 (Attachment B)

1. Proposed Ordinance

As presented in the August 5 staff report, the proposed ordinance in this report includes the following amendments to ([SRMC Section 14.03.030](#)) of the City’s the Zoning Code and to the Transient Occupancy Tax (“TOT”) provisions set forth in [SRMC Chapter 3.20](#):

- Add definition for “Short-Term Rentals” to SRMC Section 14.03.030:

“Short-term rental” means the rental of all or a portion of a dwelling unit for less than 30 days consecutive tenancy.

- Amend definition for “Hotel” by removing “multiple guest rooms” in SRMC Section 14.03.030:

“Hotel” means any building or portion thereof ~~containing multiple guest rooms~~ 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.

- Amend definition of “Home Occupation” to explicitly not apply to short-term rentals in SRMC Section 14.03.030:

“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.

- Amend definition of “Hotel” in Section 3.20.020 to include “Short-Term Rental”

““Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, short-term rental or other similar structure or portion thereof.”

In addition to these changes to existing SRMC sections, the proposed ordinance creates a new chapter, *Chapter 10.110- Short-Term Rental Program*. While this chapter establishes the Short-Term Rental Program, the program policies and procedures are included in the proposed resolution discussed in the following section.

Staff has reviewed this ordinance and finds that its adoption would be exempt from the California Environmental Quality Act (CEQA) pursuant to section 15301 of the State CEQA Guidelines for projects for the operation, repair, maintenance, or minor alteration of existing structures or facilities.

2. Proposed Resolution- Program Policies and Procedures

The proposed resolution in this report provides the policies and procedures for the Short-Term Rental Program established in the proposed ordinance, becoming effective January 1st, 2020. These regulations include:

i. Property Eligibility

- a. Eligible Properties- A property must meet the following four criteria to be eligible for short-term rental use:
 - 1) All or a portion of the Residential Unit is offered for Tourist or Transient Use by the Permanent Resident of the Residential Unit
 - 2) the Residential Unit is the Primary Residence of the Permanent Resident
 - 3) the Permanent Resident is a natural person²
 - 4) the Permanent Resident has registered the Residential Unit and maintains good standing with the City of San Rafael

These restrictions are intended to prevent commercial short-term rental use, or incentives individuals from renting second homes or investment properties for short-term use. These four criteria in effect restrict short-term rentals to properties where the host is a real person and they can prove the property is their primary residence. As proof of primary residency, the host will need to provide at least three of the following: motor vehicle registration; driver's license; voter registration; tax documents showing the Residential Unit as the Permanent Resident's residence for the purposes of a home owner's tax exemption; or a utility bill.

- b. Ineligible Properties- The program regulations restrict the following from being used as a short-term rental:
 - 1) Income-restricted affordable housing, including Below-Market-Rate (BMR) units and public housing
 - 2) Student housing, dormitories and Single-Room-Occupancy (SRO) buildings
 - 3) Commercial or industrial zoned lots
 - 4) Non-residential areas within buildings, such as storage areas, and living/sleeping quarters added in garages
 - 5) Motorized Recreation Vehicles (RVs), including non-motorized Travel Trailers
 - 6) Boats/House Boats
 - 7) Teepees, Yurts, Tents, and Treehouses
 - 8) Sleeping Quarters in Vans or Cars
- c. Properties with Multiple Residential Units- The proposed program regulations allow for short-term rentals in Multi-family properties as well as on lots with single family homes and

² A natural person refers to the legal definition of a person that is an individual human being as opposed to a private business entity or public organization.

an accessory structure, second unit, or junior second unit. These units must still meet the primary residency requirements.

Additionally, the proposed regulations restrict the ability of the permanent resident from offering as a short-term rental an entire single home or residential unit and the accessory structure at the same time. The permanent resident would have to choose between renting the accessory structures or the main home. However, if the permanent resident chose to rent out a portion or a room in the main house—rather than the entire main home—they would be allowed to rent out the accessory structure.

ii. Program Requirements

- a. Occupancy Limits- The proposed program regulations limit the occupancy of any short-term rental to two individuals per bedroom plus two additional individuals if the rental provides additional living space. For instance, a studio could accommodate two individuals and a one-bedroom apartment could accommodate four individuals.

In addition, occupancy would also be limited to number of people who could be accommodated by the availability of designated off-street parking on the property. In no instance could a short-term rental's occupancy be greater than the number of vehicles the property could accommodate through the designated off-street parking requirements described below.

- b. Off-Street Parking Requirements- The proposed program regulations require short-term rentals to provide sufficient designated off-street parking to accommodate their occupants. The proposed program regulations stipulate that one designated off-street parking space must be provided for every four guests.

In addition to the Parking Plan described above, for properties with multiple residential units used as short-term rentals, each rental listing must have its own designated off-street parking.

- c. Registration- The proposed program regulations require short-term rentals to be registered with the City and the registration renewed annually. As part of the registration and renewal, the permanent resident will need to provide the following:
- 1) Property Information including documentation of the above requirements, property details, and a 24-hour local contact
 - 2) Proof of a self-certified property inspection, and from properties in a Wildland-Urban Interface, the registration must also include a vegetation inspection
 - 3) Documentation of interior signage providing local contact information, parking and occupancy requirements, garbage disposal and Noise Ordinance requirements, and Emergency Information
- d. Fee- As described in the Fiscal Impact section, registrants will be charged an initial fee of \$170 and a renewal fee of \$135.
- e. TOT Collection & Remittance- The program regulations require Hosts to collect and remit Transient Occupancy Taxes. As described in the August 5 staff report, staff will be working with Airbnb to execute a Voluntary Compliance Agreement to automate the collection and remittance process through the Airbnb platform for rentals using Airbnb. For other platforms, Staff will reach out to those companies about setting up similar agreements.

- f. Reporting- To maintain good standing, a host will be required to submit a quarterly report to the Community Development Department beginning on January 1, April 1, July 1, and October 1 of each year, regarding the number of days listings have been rented.
- g. Audit- The program regulations include an annual audit of five percent of registrations for program compliance. This audit will include a registration review, property inspection, and TOT payment review.

iii. Enforcement

- a. Violations & Appeals- The program regulations will utilize the existing administrative enforcement procedures in the SRMC for handling complaints, violations, and appeals. Note, as part of the proposed expanded contract with Host Compliance, a 24/7 Complaint Hotline will be available to the public to aide in handling complaints.
- b. Revocation of Registration- The program regulations allow for the Community Development Director to revoke a program registration at any time for the following reasons:
 - 1) The property has not collected or remitted their TOT
 - 2) The property has received three verified violations over a two-year period, also known as a three-strikes policy
 - 3) The property registration included misrepresented or omitted information
 - 4) The registration was transferred or attempted to be transferred to another individual

COMMUNITY OUTREACH:

A public notice of this meeting was mailed to stakeholders, agencies and special interest groups 15 days prior to this meeting (Attachment C). Those noticed included, among others, all neighborhood associations, the Federation of San Rafael Neighborhoods, housing advocacy groups, and the San Rafael Chamber of Commerce.

Extensive community outreach has been conducted since the City Council first considered a potential Short-Term Rental program. This outreach is described in the [February 19](#) and August 5 staff reports.

FISCAL IMPACT:

The establishment of a Short-Term Rental Program through the proposed ordinance and resolution in this staff report will have a fiscal impact on the City (Table 1). Staff estimates first-year program costs of approximately \$41,000 and ongoing program costs of approximately \$33,000 annually. Staff proposes cost-recovering program fees of \$170 per short-term rental for initial registrations and \$135 per short-term rental for annual renewals. Staff estimates additional TOT revenue ranging from approximately \$18,000 to \$105,000 annually, with an average of approximately \$39,000 annually.

Table 1. Estimated Annual Short-Term Rental Program Balance

Projection	Revenue			Expenditures		Annual Balance	
	Year 1- Fees	Ongoing- Fees	TOT	Year 1	Ongoing	Year 1	Ongoing
Low-End	\$40,807	\$32,745	\$18,051	\$40,807	\$32,745	\$18,051	\$18,051
Mean	\$40,807	\$32,745	\$39,738	\$40,807	\$32,745	\$39,738	\$39,738
High-End	\$40,807	\$32,745	\$105,183	\$40,807	\$32,745	\$105,183	\$105,183

* Program fees are calculated as cost-recovering for program expenses. If fees are collected, Year 1 and Ongoing program balances would be the same as they reflect the TOT Revenue collected that year.

A. Program Costs

1. Technology Requirements

Currently, the City has a contract with Host Compliance to perform STR address identification and monitoring. This compliance monitoring software is a highly cost-effective tool for enforcement of any STR policy as it provides a wide range of services at a cost significantly less to a jurisdiction than developing and maintaining the services internally. These services include the following:

- **STR Address Identification-** an online dashboard with address and rental information for all identifiable STRs;
- **Compliance Monitoring-** outreach and monitoring of STR listings for compliance with a jurisdictions zoning and regulations;
- **Permitting and Registration-** online and mobile registration or permitting including collection of payments, signatures, and required documents;
- **Rental Activity Monitoring and Tax Collection-** monitoring of STR listing rental activity and support for TOT collection;
- **Complaint Hotline-** 24/7 staffed hotline for neighbors to report non-emergency STR problems.

The City's current contract is \$2,829 until January 9, 2019 for STR address identification and monitoring. This amount reflects an annual rate of \$8,487 prorated for four months. An expanded Host Compliance contract to include all the services listed above would cost \$23,949 annually for a two-year contract. If the City decided to enter into a three-year contract, the contract amount would be reduced by ten (10) percent to \$21,554 annually.

2. Staffing Requirements

Staff estimates first-year costs for implementation of the Short-Term Rental program at approximately \$41,000. These staffing costs include first-year program management, permit processing and technology development. Additionally, these costs include staff time for conducting an STR workshop and for the City Attorney to develop a Voluntary Compliance Agreement with STR platforms to collect and remit TOT through the platform on behalf of hosts. Staff estimates on-going costs of approximately \$33,000 (**Table 2**). These costs would cover expanding STR Compliance Monitoring Services as well as on-going staffing costs. Staff will be able to limit hours needed for administrative tasks by utilizing the Host Compliance software. The increase in hours associated with a new program is anticipated to be covered by existing staffing levels.

Table 2. Estimated Short-Term Rental Program Costs

	Est. Hourly Rate	Est. Annual Hours	One Time	On-Going	
			New	Existing	New
<u>Host Compliance Services</u>					
Address Identification				\$8,487	
Mobile Registration					\$5,000
Compliance Monitoring					\$3,339
Rental Activity Monitoring					\$4,452
24/7 Dedicated Hotline					\$2,671
<i>Host Compliance Sub-total</i>				\$23,949	
<u>Implementation Staffing (One-Time)</u>					
Program Management	\$48.32	80	\$3,866		
City Attorney	\$114.84	10	\$1,148		
STR Workshop	\$67.76	8	\$542		
Technology development	\$67.76	20	\$1,355		
Permit Processing	\$57.56	20	\$1,151		
<u>Community Development Staffing (On-going)</u>					
Program Management	\$48.32	80			\$3,866
Code Enforcement	\$48.32	20			\$966
Annual Audit	\$48.32	20			\$966
<u>Finance Staffing (On-going)</u>					
Business License & TOT Processing	\$60.24	20	\$1,205		\$1,205
Business License & TOT Review	\$89.63	20	\$1,793		\$1,793
<i>One-Time Staffing Subtotal</i>			\$8,062		
<i>On-Going Staffing Subtotal</i>				\$8,796	
Year One Total			\$40,807		
On-Going Total				\$32,745	

3. Program Fees

Based upon the estimated costs associated with Compliance Monitoring Software and Staffing, staff estimates a registration fee, paid at the time of initial registration, of \$170 for the Short-Term Rental Program. Staff estimates renewal fee, paid every year after initial registration, of \$135 based upon an average of 240 units active in the last 12 months. These fee amounts would be set to be cost-recovering of program costs including Host Compliance services and direct staffing costs. By resolution, the City Council would be able to adjust these fee amounts annually based upon program costs and changes to number of active short-term rentals in San Rafael.

4. Transient Occupant Tax

Staff analyzed annual balances for all options given the low, mean, and high estimate for TOT revenue collection as presented in the February 19 Staff Report. Staff estimates that the City could collect between approximately \$18,000 and 105,000 in TOT in a given year. On average, TOT collection could be approximately \$39,000 annually. When combined with cost-recovering fees, the estimated program balance would be the same as the TOT collected, ranging between a net positive balance of \$18,000 and \$105,000 with an average of \$39,000 annually.

OPTIONS:

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

- Introduce and pass the ordinance to print and adopt the resolution creating a “Short-Term Rental Program”.
- Introduce and pass to print as amended an ordinance and/or resolution and direct staff to return with the amended ordinance and/or resolution at a date certain for vote.
- Direct staff to return with more information.
- Take no action.

RECOMMENDED ACTION:

1. Conduct a public hearing introducing an ordinance amending San Rafael Municipal Code Section 14.03.030 and Section 3.20.020, and adding new Chapter 10.110 entitled “Short-Term Rental Program” and pass the ordinance to print.
2. Adopt a resolution creating a “Short-Term Rental Program”.

ATTACHMENTS:

1. Ordinance
2. Resolution

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL
AMENDING SECTION 14.03.030 AND SECTION 3.20.020 OF THE SAN
RAFAEL MUNICIPAL CODE, AND ADDING NEW CHAPTER 10.110 ENTITLED
“SHORT-TERM RENTAL PROGRAM”**

THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

DIVISION 1. FINDINGS.

WHEREAS, on June 10, 2016 the City of San Rafael began monitoring short-term rental activity and trends within the City;

WHEREAS, as of December 2018, there were 286 active short-term rentals in the City of San Rafael, an increase from 150 active short-term rentals from when monitoring first began in 2016;

WHEREAS, on August 20, 2018, staff presented the City Council with a comprehensive report on a broad range of housing topics and issues and the City Council directed staff to follow up on four specific housing issues and return to the City Council with an informational report on potential short-term rental policy options;

WHEREAS, on February 19, 2019, staff presented the City Council with an informational report on short-term rental approaches, including analysis of active short-term rentals, best practices, and regulatory and enforcement options. The City Council requested that staff conduct expanded community outreach and additional analysis on the impacts of short-term rentals on the City’s housing stock, and of the use of accessory structures as short-term rentals;

WHEREAS, on March 20, 2019, staff held a stakeholder meeting with the Federation of Neighborhoods and presented a summary of the short-term rental related activity to date in San Rafael including a summary of actions from the February 19, 2019 City Council Meeting. Attendees expressed no major concerns around short-term rental regulation;

WHEREAS, on April 4, 2019, staff met with approximately 25 San Rafael short-term rental hosts using the Airbnb platform. Staff presented a summary of the short-term rental-related activity to date including a summary of actions from the February 19, 2019 City Council meeting. Attendees expressed no major concerns around short-term rental regulation;

WHEREAS, beginning on March 22, 2019 and concluding on April 22, 2019, staff conducted an online community survey of potential short-term rental regulations. 409 individuals responded to the survey during the month that it was made available, and survey results indicate support for the development of a short-term rental program;

WHEREAS, on May 29 and May 30, 2019, staff held community meetings to present the findings of the community survey and presented a “Straw-man” proposal-- intended to generate

discussion of disadvantages and to provoke the generation of new and better proposals for the creation of a short-term rental program;

WHEREAS, on June 18, 2019, staff met with the San Rafael Chamber of Commerce Government Affairs Committee and made the same presentation reviewing the results of the community survey used during the Community Meetings. Attendees expressed no major concerns around short-term rental regulation; and

WHEREAS, on August 5, 2019, staff presented the City Council with additional analysis and overview of the community outreach associated with the development of a potential short-term rental program for the City of San Rafael, and draft program regulations, program costs and revenues, and a draft ordinance. The City Council directed staff to return with an ordinance and program regulations for City Council consideration that creates a short-term rental program;

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

DIVISION 2. AMENDMENTS TO MUNICIPAL CODE.

- A. Section 14.03.030 of the San Rafael Municipal Code is hereby amended by amending the definitions of “Hotel” and “Home Occupation” and adding a definition of “short-term rental” as follows (strike-outs indicate deletions, double-underlining indicates additions):

"Hotel" means any building or portion thereof ~~containing multiple guest rooms~~ 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.

"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.

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

- B. Section 3.20.020 of the San Rafael Municipal Code is hereby amended to amend the definition of “Hotel” as follows (strike-outs indicate deletions, double-underlining indicates additions):

““Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, short-term rental or other similar structure or portion thereof.”

C. Title 10 of the San Rafael Municipal Code, entitled “Businesses, Professions, Occupations, Industries and Trades” is hereby amended by adding new Chapter 10.110, entitled “Short-Term Rental Program” to read in its entirety as follows:

10.110.010 Purpose and intent

Notwithstanding any other provision of this Title, all Short-Term Rentals as defined in Section 14.03.030 of this Code, as may be amended or superseded, are subject to the policies and procedures specified in the San Rafael City Council’s “Policies and Procedures for the Administration of the ‘Short Term Rental Program’ as set forth in San Rafael Municipal Code Chapter 10.110” (“Program”), as adopted and amended from time to time by City Council resolution, and all Short-Term Rentals shall comply with such Policy.

10.110.020 Violations a public nuisance; penalties, nuisance abatement, and other remedies

Any Short-Term Rental operated, conducted, or maintained contrary to the provisions of this chapter and/or the Program shall be, and the same is hereby declared to be, unlawful and a public nuisance, and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law. Such remedies shall be in addition to any other judicial and administrative penalties and remedies available to the City under Chapters 1.40, 1.42, 1.44, or 1.46 of this code, or under State law.

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15301 of the State CEQA Guidelines for operation, repair, maintenance, or minor alteration of existing structures or facilities.

DIVISION 4. SEVERABILITY.

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

DIVISION 5. EFFECTIVE DATE; 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 January 1, 2020. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers 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.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the _____ day of _____, 2019 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers

NOES: Councilmembers

ABSENT: Councilmembers

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 _____ day of _____, 2019.

LINDSAY LARA, City Clerk

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL
ADOPTING POLICIES AND PROCEDURES FOR THE ADMINISTRATION
OF THE “SHORT-TERM RENTAL PROGRAM” AS SET FORTH IN
SAN RAFAEL MUNICIPAL CODE CHAPTER 10.110**

WHEREAS, on June 10, 2016 the City of San Rafael began monitoring short-term rental activity and trends within the City;

WHEREAS, as of December 2018, there were 286 active short-term rentals in the City of San Rafael, an increase from 150 active short-term rentals from when monitoring first began in 2016;

WHEREAS, on August 20, 2018, staff presented the City Council with a comprehensive report on a broad range of housing topics and issues and the City Council directed staff to follow up on four specific housing issues and return to the City Council with an informational report on potential short-term rental policy options;

WHEREAS, on February 19, 2019, staff presented the City Council with an informational report on short-term rental approaches, including analysis of active short-term rentals, best practices, and regulatory and enforcement options. The City Council requested that staff conduct expanded community outreach and additional analysis of the impacts of short-term rentals on the City’s housing stock and of short-term rental use of accessory structures;

WHEREAS, on March 20, 2019, staff held a stakeholder meeting with the Federation of Neighborhoods and presented a summary of the short-term rental related activity to date in San Rafael including a summary of actions from the February 19, 2019 City Council Meeting. Attendees expressed no major concerns around short-term rental regulation;

WHEREAS, on April 4, 2019, staff met with approximately 25 San Rafael short-term rental host using the Airbnb platform. Staff presented a summary of the short-term rental-related activity to date including a summary of actions from the February 19, 2019 City Council Meeting. Attendees expressed no major concerns around short-term rental regulation;

WHEREAS, beginning on March 22, 2019 and concluding on April 22, 2019, staff conducted an online community survey of potential short-term rental regulations. 409 individuals responded to the survey during the month that it was made available, and survey results indicate support for the development of a short-term rental program;

WHEREAS, on May 29 and May 30, 2019, staff held community meetings presented on the findings of the community survey and presented a “Straw-man” proposal-- intended to generate discussion of disadvantages and to provoke the generation of new and better proposals for the creation of a Short-term Rental Program;

WHEREAS, on June 18, 2019, staff met with the San Rafael Chamber of Commerce Government Affairs Committee and presented the same presentation reviewing the results of the community survey used during the Community Meetings. Attendees expressed no major concerns around short-term rental regulation; and

WHEREAS, on August 5, 2019, staff presented the City Council with additional analysis and overview of the community outreach associated with the development of a potential short-term rental program for the City of San Rafael, and draft program regulations, program costs and revenues, and a draft ordinance. The City Council directed staff to return with an ordinance and program regulations for City Council consideration that creates a short-term rental program;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby adopts the following Policies and Procedures for the administration of the “Short Term Rental Program” (“the Program”):

SECTION 1 PURPOSE AND INTENT

It is the purpose of this Program to benefit the general public by minimizing adverse impacts on the housing supply and on persons and households of all income levels resulting from the loss of residential units through their conversion to tourist and transient use. This is to be accomplished by regulating the conversion of residential units to tourist and transient use, and through appropriate administrative and judicial remedies.

SECTION 2 APPLICABILITY

The provisions of this Program shall apply to all Dwelling Units in the San Rafael city limits, including a single-family dwelling or unit in a multifamily or multipurpose dwelling, a unit in a condominium or cooperative housing project, or a unit in a structure that is being used for residential uses whether or not the residential use is a conforming use permitted under the San Rafael Municipal Code, which is hired, rented, or leased to a household within the meaning of California Civil Code Section 1940.

SECTION 3 DEFINITIONS

For the purpose of this Program, unless the context clearly requires different meaning, the words, terms, and phrases set forth in this section shall have the meanings given to them in this section:

- A. “Booking Service” - A Booking Service is any reservation and/or payment service provided by a person or entity that facilitates a short-term rental transaction between an Owner or Business Entity and a prospective tourist or transient user, and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction.
- B. “Business Entity” means a corporation, partnership, or other legal entity that is not a natural person that owns or leases one or more residential units.

- C. "Complaint" means a complaint submitted to the Department alleging a violation of SRMC Chapter 10.110 and/or this Program and that includes the Residential Unit's address, including unit number, date(s) and nature of alleged violation(s), and any available contact information for the Owner and/or resident of the Residential Unit at issue.
- D. "Conversion or Convert" means a change of use from Residential Use to Tourist or Transient Use, including, but not limited to, renting a Residential Unit as a Tourist or Transient Use.
- E. "Department" means the Community Development Department.
- F. "Director" means the Director of the Community Development Department, or his or her designee.
- G. "Dwelling unit" for purposes of this Program means one or more rooms designed, occupied or intended for occupancy as separate living quarters, with a kitchen, sleeping facilities, and sanitary facilities for the exclusive use of one household, but not including any such unit occupied in whole or in part by the property owner or the property owner's family members, including parents, children, brothers, sisters, aunts, uncles, nieces, and/or nephews.
- H. "Good Standing" - To maintain good standing on the Registry, the Permanent Resident shall be in compliance with all program requirements set forth in this Program.
- I. "Host" means a person or Business Entity that participates in the short-term rental business by providing a short-term rental.
- J. "Hosting Platform" A person or Business entity that participates in the short-term rental business by providing and collecting or receiving a fee for Booking Services through which a Host may offer a Residential Unit for Tourist or Transient Use. Hosting Platforms usually, though not necessarily, provide Booking Services through an online platform that allows a Host to advertise the Residential Unit through a website provided by the Hosting Platform and the Hosting Platform conducts a transaction by which potential tourist or transient users arrange Tourist or Transient Use and payment, whether the tourist or transient pays rent directly to the Host or to the Hosting Platform.
- K. "Interested Party" means a Resident of the building in which the Tourist or Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit or Business Entity property in which the Tourist or Transient Use is alleged to occur, a Resident or Owner of a property within 100 feet of the property containing the Residential Unit in which the Tourist or Transient Use is alleged to occur, the City of San Rafael, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws.
- L. "Owner" - Owner includes any person who is the owner of record of the real property. As used in this Program, the term "Owner" includes a lessee where the lessee is offering a Residential Unit for Tourist or Transient use.

- M. "Permanent Resident" means a person who occupies a Residential Unit for at least 60 consecutive days with intent to establish that unit as his or her primary residence. A Permanent Resident may be an owner or a lessee.
- N. "Primary Residence" means the Permanent Resident's usual place of return for housing as documented by at least three of the following: motor vehicle registration; driver's license; voter registration; tax documents showing the Residential Unit as the Permanent Resident's residence for the purposes of a home owner's tax exemption; or a utility bill. A person may have only one Primary Residence.
- O. "Recreational Vehicle" means a motorhome, housecar, travel trailer, truck camper, or camp trailer; with or without motive power; designed for human habitation or other occupancy.
- P. "Residential Unit" means a room or rooms, including a condominium or a room or dwelling unit that forms part of a tenancy-in-common arrangement, in any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied for Residential Use as defined in the San Rafael Municipal Code.
- Q. "Residential Use" means any use for occupancy of a Residential Unit.
- R. "Short-Term Rental" means any rental of all or a portion of a dwelling unit for less than 30 days consecutive tenancy.
- S. "Short-Term Rental Registry" or "Registry" means a database of information maintained by the Department that includes a unique registration number for each Short-Term Rental and information regarding Hosts who are permitted to offer Residential Units for Short-Term Rental. The Registry shall be available for public review to the extent required by law, except that, to the extent permitted by law, the Department shall redact any Host names and street and unit numbers from the records available for public review.
- T. "SRMC" means the San Rafael Municipal Code.
- U. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered.
- V. "Travel Trailer" means a vehicle designed for recreational purposes to carry persons or property on its own structure and constructed to be drawn by a motor vehicle, as defined in [California Vehicle Code § 242](#) or [California Vehicle Code § 324](#).
- W. "Tourist or Transient Use" means any use of a Residential Unit for occupancy for less than a 30-day term of tenancy, or occupancy for less than 30 days of a Residential Unit leased or owned by a Business Entity, whether on a short-term or long-term basis, including any occupancy by employees or guests of a Business Entity for less than 30 days where payment for the Residential Unit is contracted for or paid by the Business Entity.

SECTION 4 Property Eligibility

A. Eligible Properties. Only properties where all of the following conditions are met are eligible to register for the Short-Term Rental Program:

- 1) the Residential Unit is offered for Tourist or Transient Use by the Permanent Resident of the Residential Unit;
- 2) the Residential Unit is the Primary Residence of the Permanent Resident;
- 3) the Permanent Resident is a natural person;
- 4) the Permanent Resident has registered the Residential Unit and maintains good standing with the City of San Rafael;

B. Ineligible Properties. The following property types are never eligible to be considered a Short-Term Rental and cannot register for the Short-Term Rental Program:

- 1) Income-restricted affordable housing, including Below-Market-Rate (BMR) units and public housing;
- 2) Student housing, dormitories and Single-Room-Occupancy (SRO) buildings;
- 3) Commercial or industrial zoned lots;
- 4) Non-residential areas within buildings, such as living/sleeping quarters added in garages
- 5) Motorized Recreation Vehicles (RVs), including non-motorized travel trailers;
- 6) Boats/House Boats;
- 7) Teepees, Yurts, Tents, and Treehouses;
- 8) Sleeping Quarters in Vans or Cars.

C. Properties with Multiple Residential Units. Properties with multiple residential units on a parcel can be offered as Short-Term Rentals under one of the following conditions:

- 1) Where a lot contains a single-family Dwelling Unit and any combination of the following habitable spaces: an additional dwelling unit, an Accessory Dwelling Unit, or a habitable detached accessory structure as defined in [SRMC Chapter 14.03](#), this lot may not offer as a Short-Term Rental an entire Single-Family Home and the additional habitable space concurrently. Rooms in a single-family Dwelling Unit may be offered as a Short-Term Rental concurrently with habitable space only if the Permanent Resident is present throughout the duration of the rental.
- 2) Where a lot contains a Multi-Family Residential Structure, a Residential Unit can only be offered as a Short-Term Rental by the Primary Resident. If the lot also contains an additional separate Dwelling Unit or a habitable detached accessory structure as defined in [SRMC Chapter 14.03](#), multiple Residential Units may not be offered by the Primary Resident concurrently.

SECTION 5 Program Requirements

- A. **Occupancy Limitations.** Occupancy for any Short-Term Rental is limited to two (2) occupants per bedroom, as defined in the California Building Code. An additional two (2) occupants are allowed in Short-Term Rentals that provide a separate living space. In no instance can a Short-Term Rental provide a total occupancy that is greater than the capacity of the number of vehicles which can be accommodated by the off-street parking requirements of Section 5.B. For the purposes of the Program, vehicle capacity is considered as four (4) individuals per vehicle.
- B. **Off-Street Parking Requirements.** Properties offered as Short-Term Rentals must provide sufficient designated and easily identified off-street parking spaces to meet the occupancy level offered by the Short-Term Rental. If multiple Short-Term Rentals are offered concurrently on the same property, separate designated off-street parking spaces must be provided for each Short-Term Rental offered. In no instance can the total occupancy of a Short-Term Rental exceed the vehicle capacity of the designated off-street parking available. For the purposes of the Program, vehicle capacity is considered as four (4) individuals per vehicle.

- 1) **Properties with Privately Maintained Shared Vehicle Access.** For Short-Term Rentals where vehicle access to the property is shared with multiple owners and is privately maintained, a "Parking Plan" shall be submitted. The "Parking Plan" documents the methods in which the presence of a Short-Term Rental will avoid encumbering parking. These methods may include:

- (a) Existing variances;
- (b) Shared maneuvering diagrams or conditions;
- (c) Signage identifying designated off-street parking spaces;
- (d) Agreements indicating designated off-street parking spaces.

Additionally, the "Parking Plan" shall include instructions to be provided to guests of the Short-Term Rental outlining the location of designated off-street parking spaces and instructions for maintaining clear access to shared maneuvering areas. The City will consider blocked access to shared maneuvering areas or guest parking outside of designated off-street parking spaces to be Program violations.

- C. **Property Registration.** The following information shall be documented as part of the Program registration for any Short-Term Rental. The Department shall determine, in its sole discretion, the completeness of this information and request additional documentation as necessary:

- 1) **Property Information.**
- (a) Primary Resident Name and Contact Information
 - (b) Documentation of Primary Residency
 - (c) 24-Hour Local Emergency Contact
 - (d) Property Address
 - (e) Type of Short-Term Rental

- (f) Occupancy
- (g) Number of Bedrooms
- (h) Number of Bathrooms
- (i) Number of Designated Off-Street Parking Spaces
- (j) Parking Plan, where necessary per Section 5.B.1

2) Property Inspection. As part of the registration process, an inspection must be conducted of the Short-Term Rental, in a form prescribed by the Program. This inspection may be conducted and certified by the Primary Resident, and shall include (but is not limited to):

- (a) Egress
- (b) CO2 and Smoke Detectors
- (c) Interior Signage
- (d) Designated Off-Street Parking

For Short-Term Rentals located within a Wildland-Urban Interface as defined in [SRMC Chapter 4.12](#), the registrant must pass a vegetation inspection, in a form prescribed by the Program, proof of which must be completed and submitted as part of the Program Registration.

3) Interior Signage. Properties offered as Short-Term Rentals shall have a clearly visible and legible notice posted on or directly adjacent to the inside of the front door, containing the following information:

- (a) 24-Hour Local Emergency Contact Person
- (b) Maximum number of occupants
- (c) Maximum number of vehicles
- (d) Off-street Parking Requirements
- (e) Garbage Disposal Instructions
- (f) Information regarding Fire Safety and Fire Access Roads
- (g) Emergency and Wildfire Evacuation Procedures
- (h) Information on signing up for emergency alerts
- (i) Information on San Rafael Noise Ordinance

D. Application. Registration shall be for a one-year term, which may be renewed by the Host by filing a completed renewal application. Initial and renewal applications shall be in a form prescribed by the Department. The Department shall determine, in its sole discretion, the completeness of an application. Upon receipt of a complete initial application, the Department shall send mailed notice to the owner of record of the Residential Unit, informing the owner that an application to the Registry for the unit has been received.

In addition to the information set forth here, the Department may require any other additional information necessary to show compliance with this Program. Upon the Department's

determination that an application is complete, the unit shall be entered into the Short-Term Rental Registry and assigned an individual registration number.

- E. Fee. The fee for the initial application shall be \$170 and for each renewal shall be \$135, payable to the Department. Fees set forth in this Section may be adjusted by resolution of the City Council. The City shall, if necessary, adjust the fees upward or downward for the upcoming fiscal year as appropriate to ensure that the program recovers the costs of operation without producing revenue that is significantly more than such costs. The adjusted rates shall become operative at the start of the City's fiscal year.
- F. Reporting Requirement. To maintain good standing on the Registry, the Host shall submit a quarterly report to the Department beginning on January 1, April 1, July 1, and October 1 of each year, regarding the number of days the Residential Unit or any portion thereof has been rented as a Short-Term Rental since either initial registration or the last report, whichever is more recent, and any additional information the Department may require to demonstrate compliance with this Program.
- G. Annual Audit. Each calendar year, the Program will select five percent (5%) of registrations to be audited for Program compliance. This audit will be performed by the Program staff and include:
 - 1) Registration review;
 - 2) Property Inspection;
 - 3) Transient Occupancy Tax payment review.

If a Short-Term Rental is deemed non-compliant, the Department shall follow the Administrative Enforcement Procedures outlined in Section 7.

SECTION 6 Requirements for Hosting Platforms

- A. All Hosting Platforms shall provide the following information in a notice to any user listing a Residential Unit located within the City of San Rafael through the Hosting Platform's service. The notice shall be provided prior to the user listing the Residential Unit and shall include the following information: that SRMC Chapter 10.110 and this Program regulate Short-Term Rental of Residential Units; the requirements for registration of the unit with the Department; and the transient occupancy tax obligations to the City.
- B. A Hosting Platform shall comply with the requirements of [SRMC Chapter 10.04 entitled "Business License Tax"](#) and [SRMC Chapter 3.20 entitled "Uniform Transient Occupancy Tax"](#), among any other applicable requirements, collecting and remitting all required Transient Occupancy Taxes, and this provision shall not relieve a Hosting Platform of liability related to an occupant's, resident's, Business Entity's, or Owner's failure to comply with the requirements of Chapter 10.04 and Chapter 3.20. A Hosting Platform shall maintain a record demonstrating that the taxes have been remitted to the City.
- C. A Hosting Platform may provide, and collect a fee for, Booking Services in connection with Short-Term Rentals for Residential Units located in the City only when the Hosting Platform exercises reasonable care to confirm that those Residential Units are lawfully registered on the Short-Term Rental Registry at the time the Residential Unit is rented for short-term rental. Whenever a Hosting Platform complies with administrative guidelines issued by the City to confirm that the Residential Unit is lawfully registered on the Short-Term Rental

Registry, the Hosting Platform shall be deemed to have exercised reasonable care for the purpose of this subsection.

- D. On the fifth day of every month, a Hosting Platform shall provide a signed affidavit to the City verifying that the Hosting Platform has complied with subsection 6.C in the immediately preceding month.
- E. For not less than three years following the end of the calendar year in which the Short-Term Rental transaction occurred, the Hosting Platform shall maintain and be able, in response to a lawful request, to provide to the City for each Short-Term Rental transaction for which a Hosting Platform has provided a Booking Service:
 - 1) The name of the Owner or Business Entity who offered a Residential Unit for Tourist or Transient Use,
 - 2) The address of the Residential Unit,
 - 3) The dates for which the tourist or transient user procured use of the Residential Unit using the Booking Service provided by the Hosting Platform, and
 - 4) The registration number for the Residential Unit.
- F. The Department shall designate a contact person for members of the public who wish to file Complaints under this Program or who otherwise seek information regarding this Program or Short-Term Rentals. This contact person shall also provide information to the public upon request regarding quality of life issues, including, for example, noise violations, vandalism, or illegal dumping, and shall direct the member of the public and/or forward any such Complaints to the appropriate City department.
- G. Notwithstanding any other provision of this Program, nothing in this Program shall relieve an individual, Business Entity, or Hosting Platform of the obligations imposed by any and all applicable provisions of state law and the San Rafael Municipal Code including but not limited to those obligations imposed by [SRMC Chapter 10.04 entitled "Business License Tax"](#) and [SRMC Chapter 3.20 entitled "Uniform Transient Occupancy Tax"](#). Further, nothing in this Program shall be construed to limit any remedies available under any and all applicable provisions of state law and the San Rafael Municipal Code including but not limited to [SRMC Chapter 10.04 entitled "Business License Tax"](#) and [SRMC Chapter 3.20 entitled "Uniform Transient Occupancy Tax"](#).

SECTION 7 Administrative Enforcement Procedures

- A. Determination of Violation. Upon the filing of a written Complaint, the Director shall take reasonable steps necessary to determine the validity of the Complaint. To determine if there is a violation of this Program and/or SRMC Chapter 10.110, the Director may initiate an investigation. This investigation may include, but is not limited to, an inspection of the subject property and/or a request for any pertinent information from the Owner, Business Entity, or Hosting Platform, such as leases, business records, or other documents. The Director shall have discretion to determine whether there is a violation of this Program and/or SRMC Chapter 10.110. Notwithstanding any other provision of this Program, any alleged violation related to failure to comply with the requirements of [SRMC Chapter 10.04 entitled "Business License Tax"](#) or [SRMC Chapter 3.20 entitled "Uniform Transient Occupancy Tax"](#) shall be enforced under the provisions of those Chapters.

- B. Administrative Citations and Noticing and Administrative Hearing Procedures. Administrative citations and Noticing and Administrative Hearing Procedures for violations of this Program and/or SRMC Chapter 10.110 shall be conducted in accordance with [SRMC Chapter 1.44](#) and/or [SRMC Chapter 1.46](#).
- C. Administrative Penalties for Violations and Enforcement Costs. Administrative Penalties and Enforcement Costs for violations of this Program and/or SRMC Chapter 10.110 shall be imposed in accordance with [SRMC Chapter 1.44](#) and/or [SRMC Chapter 1.46](#).
- D. Revocation of Registration. A Short-Term Rental registration issued under the terms of the Program shall be revoked by the Director at any time if they conclude any of the following:
 - 1) The Short-Term Rental is not current on transient occupancy taxes and has not paid all such taxes to the City in full by the date upon which such taxes became due.
 - 2) There have been three or more upheld citations for violations of the San Rafael Municipal Code at the Short-Term Rental property within a twenty-four (24) month period. For the purposes of this subsection, upheld citations means citations which were neither overturned after contest or appeal nor dismissed.
 - 3) The Short-Term Rental applicant has submitted a Short-Term Rental application containing a material misrepresentation or omission of material facts.
 - 4) There has been a transfer or an attempt to transfer a Short-Term Rental registration to another person, entity, or property.

BE IT FURTHER RESOLVED that any and all amendments to the Policies and Procedures for the administration of the “Short Term Rental Program” herein, as deemed necessary from time-to-time, shall be adopted by resolution of the City Council.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the forgoing resolution was adopted at a regular meeting of the City Council held on the _____ day of _____, 2019:

AYES: Councilmembers

NOES: Councilmembers

ABSENT: Councilmembers

LINDSAY LARA, City Clerk

Marin Independent Journal

4000 Civic Center Drive, Suite 301
San Rafael, CA 94903
415-382-7335
legals@marinij.com
2070419

CITY OF SAN RAFAEL
CITY OF SAN RAFAEL
CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

10/18/2019

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 18th day of October, 2019.



Signature

PROOF OF PUBLICATION

Legal No. **0006413147**

CITY OF SAN RAFAEL NOTICE OF PUBLIC HEARING

You are invited to attend the City Council hearing on the following project:

PROJECT:
SHORT-TERM RENTALS - ORDINANCE & POLICY RESOLUTION. As follow-up to an informational report presented to the San Rafael City Council on August 5, 2019, a draft ordinance and policy resolution have been prepared addressing short-term rentals. Specifically, the ordinance and policy resolution propose to establish regulations for permitting, administering, enforcing, and taxing short-term rentals. A webpage has been created on the City's website, which includes two "white papers" on the topic of short-term rentals. This webpage can be accessed at: <https://www.cityofsanrafael.org/short-term-rentals/>. City File No. P18-013

As required by state law, the project's potential environmental impacts have been assessed. The Community Development Department staff recommends that this project will not have a significant effect on the environment as it is covered by the general rule, pursuant to CEQA Guidelines Section 15061(b)(3), and is not subject to environmental review.

**HEARING DATE: Monday, November 4, 2019
at 7:00 P.M.**

LOCATION: San Rafael City Hall -
City Council Chambers
1400 Fifth Avenue
San Rafael, California

WHAT WILL HAPPEN: You can comment on the project. The City Council will consider all public testimony and decide whether to adopt the amendments to the Municipal Code and the policy resolution.

IF YOU CANNOT ATTEND: You can send a letter to the City Clerk, City of San Rafael, 1400 5th Avenue, San Rafael, CA 94901, or an email to lindsay.lara@cityofsanrafael.org. You can also hand deliver a letter prior to the public hearing.

FOR MORE INFORMATION: Contact **Ethan Guy, Principal Analyst at (415) 458-2392** or ethan.guy@cityofsanrafael.org. You can also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>.

SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

At the above time and place, all letters received will be noted and all interested parties will be heard. If you challenge in court the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered at, or prior to, the above referenced public hearing (Government Code Section 65009 (b) (2)).

Judicial review of an administrative decision of the City Council must be filed with the Court not later than the 90th day following the date of the Council's decision. (Code of Civil Procedure Section 1094.6)

No. 1326 Oct. 18, 2019

October 30, 2019

Mayor Gary Phillips
Members of the San Rafael City Council
1400 Fifth Ave Room 203
San Rafael, CA 94901

RE: Short Term Rentals with shared driveways

Dear Mayor Phillips and Members of the City Council:

We would like to share with you a problem we are having at our personal residence which should be a concern for other homeowners, neighborhoods, and the City of San Rafael.

We live at [REDACTED] in the Montecito neighborhood and have owned our home for over 40 years. We share a driveway with our neighbor at [REDACTED]. For over two years our neighbor has been operating two short term rental (STR) seven days a week and all year long.

The private driveway we share is steep and narrow and at the top has very little room for parking and maneuvering. The driveway is difficult to negotiate and over the years car damage has resulted in replacing several retaining wall posts, tow trucks to remove cars that have gone over the edge and most recently damage to the edge causing over \$3000.00 dollars in repairs.

We no longer have any privacy in our own home. There are strange cars and people driving and walking up and down our driveway all hours of the day and night. Their headlights are directed at our front windows and we hear car horns, people talking loudly and dragging their suitcases. They use our trash cans and have damaged our driveway. We realize all STR are not the same and those with shared driveways usually involve easements which can lead to complicated liability and legal issues. These guests are complete strangers and are not familiar with our driveway or the surrounding streets or neighborhood. As a home owner we have the right to personal enjoyment of our property which we no longer have.

Our message for the City of San Rafael is to regulate STR, requiring permits, business licensing, payment of TOT taxes and penalties for violations. Because of our own personal experience and that of others with shared driveways, we also urge the Council to please ban STR on shared driveways with single family homes. Please help to protect other homeowners from the hardships we have had to endure.

Thank you for your careful consideration.

Linda Kruger & Charlie Comella
[REDACTED]

Dear Mayor Phillips and Council Members:

Regarding the ordinance to regulate short term rentals in San Rafael, please consider disallowing such rentals that are of, or within, single family homes on shared driveways.

When one shares a driveway with a neighbor (or in my case, three neighbors), there is no buffer between the actions of one neighbor and the impact on another neighbor. The activities of one neighbor have profound effects on the lifestyles of the other neighbors. All the immediate concerns wrought by short term rentals--noise, parties, occupants who are unfamiliar with the environs, garbage and litter--are exacerbated when they occur on a shared driveway.

In our case in particular, the driveway is very narrow and travels along the edge of a steep embankment. It is a fragile environment. Additionally, it is a tight squeeze with little room for turnaround at the end. One neighbor backs up the driveway to avoid this issue. It is difficult to see how someone doing it for the first time would be successful at it. I have had my house hit twice by vehicles, my fence and wall hit, and tree limbs shorn more than once! That is without the additional problems of egress by short term renters.

There are issues with all short term rentals--affordable housing is taken off the market and converted into higher priced vacation rentals; the cost of all housing increases as owners seek to monetize their homes; commercial endeavors insinuate themselves into residential areas; an enforcement game of "cat and mouse" ensues.

If, on balance, you believe that the good of short term rentals outweighs these issues (I have my doubts), then please at least protect those of us who are especially vulnerable to the additional, negative impacts of short term rentals, i.e., those of us who live in single family homes on shared driveways.

Thank you for consideration of this matter,

Daniel Sonnet





Agenda Item No: 6.b
Meeting Date: November 4, 2019

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development Department

**Prepared by: Don C. Jeppson, AIA CBO
Chief Building Official**

City Manager Approval: 

TOPIC: NOISE ORDINANCE AMENDMENTS FOR UTILITY POWER OUTAGES

SUBJECT: CONSIDERATION OF AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING CHAPTER 8.13 OF THE SAN RAFAEL MUNICIPAL CODE ENTITLED "NOISE" TO ADD AN EXEMPTION FROM NOISE REGULATIONS FOR THE USE OF GENERATORS FOR EMERGENCIES AND UTILITY POWER OUTAGES

RECOMMENDATION:

Conduct a public hearing introducing a proposed ordinance to amend Chapter 8.13 of the San Rafael Municipal Code entitled "Noise" to exempt generators for emergencies and utility power outages from the existing noise regulations and pass the ordinance to print.

BACKGROUND:

In February 2019, PG&E announced plans to proactively de-energize high voltage transmission lines and distribution lines in certain circumstances to prevent destructive wildland fires. Known as Public Safety Power Shutoffs (PSPS), these power outages could last over a week. PG&E has suggested that customers prepare for outages lasting longer than two days, particularly those who live in high-risk fire areas. Before shutting off power, PG&E reported that it will attempt to notify affected customers with up to 48 hours advance notice.

According to State fire investigators of the 18 Northern California fires in October 2017, all but the Tubbs Fire were caused by PG&E's electrical grid, Last year's devastating Camp Fire in Butte County, the deadliest and most destructive wildfire in State history, was also traced back to a PG&E transmission tower. The massive and destructive wildfires from the past few years are the new normal in California. In 2017, Northern California wildfires killed 44 people and destroyed 6,412 homes. In 2018, the Woolsey Fire and Camp Fire killed at least 85 people and destroyed more than 18,000 structures. As of May 2019, insurance claims for these fires reached \$12 billion.

Many residents in San Rafael depend on reliable electrical power for daily needs as well as medical needs including medical equipment and care in their homes. Loss of power for any significant duration places their safety and lives at risk. Therefore, it is necessary to add exemptions to Chapter 8.13 the San

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

Rafael Municipal Code (“Noise Ordinance”) to allow emergency use of portable generators and stationary generators for the preservation of the public health, safety, and welfare.

ANALYSIS:

Staff has prepared an ordinance that would exempt generators for emergencies and utility power outages from the Noise Ordinance regulations. The intent is to ensure the City is prepared to review new permit applications for stationary generators before emergencies and power outages occur. The ordinance is attached (Attachments 1).

Noise limit on all generators is 65 dBa maximum during normal operations with no loads when measured at seven meters and must meet setback requirements for mechanical equipment provided in Title 14. Noise levels at 65 dBa would be similar to conversational discussion with another person or running of common household appliances like a dishwasher or air conditioner. Stationary generators will need to obtain building permits because of the alteration of the building electrical system, connection to the gas line, and placement on site. Portable generators are required to be used within the manufacturer’s recommendations and fuel storage per the Fire Code, but are not otherwise covered by the Building Code and remain largely unregulated.

ENVIRONMENTAL REVIEW:

Staff has determined that the proposed ordinance is defined as an emergency project under the California Environmental Quality Act (CEQA) Guidelines Section 15269c and is therefore exempt from environmental review. This exemption applies to specific, short-term actions or activities that are undertaken or deemed necessary to prevent or mitigate an emergency. Short-term use of a generator during a power outage would fall in this category. This exemption would not apply to long-term projects undertaken for the purpose of preventing or mitigating a situation that have a low probability of occurrence in the short-term.

COMMUNITY OUTREACH:

Building Division staff reached out to several applicants with medical needs and others, including contractors, that were interested in obtaining building permits. Staff also reached out to the Marin Builder’s Association and San Rafael Fire Department. Ordinance information was given to the Wildfire Advisory Committee at their meeting on October 30, 2019.

FISCAL IMPACT:

If the proposed ordinance is approved, staff anticipates an increase in the number of building permits associated with the installation of generators, thus increasing the revenue of building permit fees. Staff anticipates an estimated \$10,000 increase in building permit revenues for the first year following approval of the ordinance. This revenue would steadily decline in future years, as the demand for building permits for generators decreases over time.

RECOMMENDED ACTION:

Conduct a public hearing introducing a proposed ordinance to amend Chapter 8.13 of the San Rafael Municipal Code entitled “Noise” to exempt generators for emergencies and utility power outages from the existing noise regulations and pass the ordinance to print.

ATTACHMENT:

1. Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING CHAPTER 8.13 OF THE SAN RAFAEL MUNICIPAL CODE ENTITLED "NOISE" TO ADD AN EXEMPTION FROM NOISE REGULATIONS FOR THE USE OF GENERATORS FOR EMERGENCIES AND UTILITY POWER OUTAGES

THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

DIVISION 1. FINDINGS

WHEREAS, the City Council of the City of San Rafael deems it necessary to adopt an ordinance to add exemptions to the Noise regulations of the San Rafael Municipal Code to allow emergency use of portable generators not connected to a building's electrical system and placement of stationary generators permanently installed and connected to a building's electrical system, finding the need to do so based upon the following facts:

1. In February 2019, PG&E announced plans to proactively de-energize high voltage transmission lines and distribution lines in certain circumstances to prevent destructive wildland fires. Power outages could last over a week. PG&E has suggested that customers prepare for outages lasting longer than two days, particularly those who live in high-risk fire areas. Before shutting off power, PG&E says it will attempt to notify affected customers, with up to 48 hours notice.
2. Of the 18 Northern California fires in October 2017, all but the Tubbs fire were caused by PG&E's electrical grid, according to state fire investigators. Last year's devastating Camp fire in Butte County, the deadliest and most destructive wildfire in state history, was also traced back to a PG&E transmission tower.
3. The massive and destructive wildfires from the past few years are the new normal in California. In 2017, Northern California wildfires killed 44 people and destroyed 6,412 homes. In 2018, the Woolsey Fire and Camp Fire killed at least 85 people and destroyed more than 18,000 structures. As of May 2019, insurance claims for these fires reached \$12 billion.
4. Many residents in San Rafael depend on reliable electrical power for daily needs as well as medical needs including medical equipment and care in their homes. Loss of power for any significant duration places their safety and lives at risk.

WHEREAS, adoption of this Ordinance is consistent with the City's General Plan policies;
and

WHEREAS, the Council finds this Ordinance is defined as an emergency project under the California Environmental Quality Act (CEQA) Guidelines Section 15269c and is therefore exempt from environmental review. This exemption applies to specific, short-term actions or

activities that are undertaken or deemed necessary to prevent or mitigate an emergency. Short-term use of a generator during a power outage would fall in this category; and

WHEREAS, for all the foregoing reasons, the City Council finds and declares that adoption of this Ordinance is necessary for the preservation of the public health, safety and welfare and is hereby declared.

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

DIVISION 2. MUNICIPAL CODE AMENDMENTS.

Chapter 8.13 of the San Rafael Municipal Code, entitled "Noise" is hereby amended as follows:

1. Section 8.13.020 is hereby amended to add a new definitions to read in its entirety as follows (**as shown below by strikethroughs for deletions and underline/italics for insertions**):

8.13.020 - Definitions.

For the purposes of this chapter, certain terms are defined as follows:

- A. "'A'-Weighted Sound Level (dBA)" means a decibel scale that approximates the way the human ear responds to various acoustic frequencies.
- B. "Commercial property" means property zoned for commercial, office, marine, marine commercial, or water uses, as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14, or properties zoned as planned development where the principal use is commercial, marine, marine commercial, or water use.
- C. "Constant" noise means a continuous noise produced where there is no noticeable change in the level of the noise source. Examples would include such noises as those associated with air conditioners and pool equipment.
- D. "Daytime" for purposes of this chapter means the period between seven a.m. (7:00 a.m.) and nine p.m. (9:00 p.m.) Sunday through Thursday and between seven a.m. (7:00 a.m.) and ten p.m. (10:00 p.m.) on Friday and Saturday.
- E. *"Emergencies or utility power outages" means: Any city, county, or state declared emergencies; any interruption of utility power due to preventive utility shut-off measures or due to damage to utility infrastructure from accidents, earthquakes, fires, floods, storms, winds, or other acts; or any event deemed to be an emergency by city officials to preserve and protect life or property.*
- F. "Decibel" means the measurement unit used for the level of sound/noise.
- G. "Holidays" mean those holidays designated as federal holidays and the day after Thanksgiving.
- H. "Industrial property" means property zoned for industrial or light industrial use as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14, or properties zoned as planned development where the principal use is industrial or light industrial.

- I. "Intermittent" noise means repetitive noises where there is a distinction between the onset and decay of the sound. Examples would include hammering and dog barking.
- J. "Mixed use property" means property zoned for both residential and for office and/or commercial use as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14.
- K. "Multi-family residential structure" means any dwelling structure where two or more dwellings are separated by a common wall, floor, or ceiling, including but not limited to apartments, condominiums and townhouses.
- L. "Nighttime" for purposes of this chapter means the period between nine p.m. (9:00 p.m.) and seven a.m. (7:00 a.m.) Sunday through Thursday and between ten p.m. (10:00 p.m.) and seven a.m. (7:00 a.m.) on Friday and Saturday.
- M. "Noise level" means the maximum constant or intermittent sound level produced by a source or group of sources as measured with a sound level meter using fast response and "A"-weighting. In order to measure a noise level, the controls of the sound level meter should be arranged to the setting appropriate to the type of noise being measured.
- N. "Portable generator" means any UL listed diesel or gas fired generator not connected to a building's electrical system and only intended to provide power during emergencies or utility power outages. Generators must not exceed 65 dBA during full speed diagnostics and normal operations when measured at 7 meters with no loads, must meet setback requirements for mechanical equipment provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14 and must meet all fuel storage requirements provided in the California Fire Code." ~~"Sound level meter" means a device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard S1.4, "Specification for Sound Level Meters."~~
- O. "Property plane" means a vertical plane including the property line that determines the property boundaries in space.
- P. "Public property" means property zoned for public/quasi-public or parks/open space use as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14, or the San Rafael City Plaza, or any public street, right-of-way, or easement.
- Q. "Residential power equipment" means any mechanically powered saw, sander, drill, grinder, leaf blower, lawnmower, hedge trimmer, edger, or any other similar tool or device, when used in or on any residential property.
- R. "Residential property" means property zoned for residential use as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14, or properties zoned for mixed use or as planned development where the principal use is residential.
- S. "Routine testing" means the required and routine testing per manufacturer's recommendations to maintain and keep ready stationary generators; usually on a weekly or monthly schedule.
- T. "Sound level meter" means a device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard S1.4, "Specification for Sound Level Meters."

U. "Stationary generator" means any UL 2200 listed natural gas and/or propane fired generator permanently connected to the building's electrical system and only intended to provide power during emergencies or utility power outages. Generators must not exceed 65 dBA during full speed diagnostics and normal operations when measured at 7 meters with no loads and must meet setback requirements for mechanical equipment provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14.

2. Section 8.13.070 is hereby amended to read in its entirety as follows (as shown below by ~~strikethroughs~~ for deletions and underline/italics for insertions):

8.13.070 - Exemptions.

The following shall be exempt from the provisions of this chapter:

- A. Aerial warning devices which are required by law to protect the health, safety and welfare of the community;
- B. Emergency vehicle responses and all necessary equipment utilized for the purpose of responding to an emergency, or necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm;
- C. Aviation, railroad, and public transit operations;
- D. The operation of any municipal or public utility vehicles;
- E. Public safety training exercises conducted between the hours of eight a.m. (8:00 a.m.) and eight p.m. (8:00 p.m.);
- F. Uses established through any applicable discretionary review process containing specific noise conditions of approval and/or mitigation measures;
- G. Work on capital improvements, or repairs on public property by employees or contractors of the city;
- H. Vehicle noise subject to regulation under the California Vehicle Code;
- I. Emergency repair work performed by, or at the request of, a property owner on his or her private property, where the delay required to obtain an exception permit under this chapter would result in substantial damage, personal injuries, or property loss to the owner, provided that such emergency work shall be subject to such reasonable conditions as may be imposed by authorized city employees to mitigate the noise level of the activity.
- J. Portable Generator used during emergencies or utility power outages per manufacturer's recommendations.
- K. Stationary Generator installed and used during emergencies, utility power outages or routine testing per manufacturer's recommendations. Routine testing for stationary generators shall be conducted between the hours of ten a.m. (10:00 a.m.) and four p.m. (4:00 p.m.).

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

This Ordinance is exempt from the California Environmental Quality Act ("CEQA") since it is an emergency project under the California Environmental Quality Act (CEQA) Guidelines Section

15269c, which applies to specific, short-term actions or activities that are undertaken or deemed necessary to prevent or mitigate an emergency.

DIVISION 4. SEVERABILITY

If any provision of this Ordinance or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Ordinance are severable.

DIVISION 5. EFFECTIVE DATE OF ORDINANCE.

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 thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers 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.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the _____ day of _____, 2019 and ordered passed to print by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

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 _____ day of _____, 2019.

LINDSAY LARA, City Clerk

Marin Independent Journal

4000 Civic Center Drive, Suite 301
San Rafael, CA 94903
415-382-7335
legals@marinij.com
2070419

CITY OF SAN RAFAEL
CITY OF SAN RAFAEL
CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

10/25/2019

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 25th day of October, 2019.



Signature

PROOF OF PUBLICATION

Legal No. **0006414578**

CITY OF SAN RAFAEL

**NOTICE OF PUBLIC HEARING
BEFORE THE SAN RAFAEL CITY COUNCIL**

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SAN RAFAEL AMENDING CHAPTER
8.13 OF THE SAN RAFAEL MUNICIPAL CODE TO
ADD AN EXEMPTION FROM NOISE REGULA-
TIONS FOR THE USE OF GENERATORS FOR
EMERGENCIES AND UTILITY POWER OUTAGES**

DATE/TIME: Monday, November 4, 2019
at 7:00 PM

LOCATION: City Council Chambers, City Hall,
1400 Fifth Avenue, San Rafael, CA

PURPOSE: The San Rafael City Council will hold a public hearing to receive public comments and to consider adoption of a proposed ordinance to amend Chapter 8.13 of the San Rafael Municipal Code ("Noise") to exempt generators used for emergencies and utility power outages from the chapter's noise regulations.

IF YOU CANNOT ATTEND:

You can send a letter with your comments regarding the proposed ordinance to Lindsay Lara, City Clerk, City of San Rafael, 1400 Fifth Avenue, San Rafael, CA 94901, or by email to lindsay.lara@cityofsanrafael.org. You can also hand deliver a letter prior to the public hearing.

FOR MOREFor additional information regarding the above, you can contact Don Jeppson, Chief Building Official for the City of San Rafael at (415) 485-3357. Office hours are Monday-Friday, 8:30 AM to 5:00 PM.

Lindsay Lara
City Clerk
City of San Rafael

NO.1339 OCT. 25, 2019



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Human Resources

**Prepared by: Cristine Alilovich
Assistant City Manager**

City Manager Approval:

TOPIC: Successor Memorandum of Understanding between the City of San Rafael and SEIU Local 1021 – Child Care Unit

SUBJECT: DISCUSSION AND CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING PERTAINING TO COMPENSATION AND WORKING CONDITIONS FOR SEIU LOCAL 1021 – CHILD CARE UNIT (NOVEMBER 1, 2019 THROUGH OCTOBER 31, 2021)

RECOMMENDATION: Direct staff to return with a Resolution seeking approval of a successor Memorandum of Understanding (MOU) between the City of San Rafael and SEIU Local 1021 – Child Care Unit.

BACKGROUND:

SEIU Local 1021 – Child Care Unit represents 42 employees (36.40 FTE) in the Child Care Division of the Department of Library and Recreation Services. The SEIU Local 1021 – Child Care MOU expires on October 31, 2019. Over the past few months, representatives of the City and SEIU Local 1021 – Child Care have met in good-faith and worked diligently to negotiate the terms of a successor MOU. The City and SEIU Local 1021 – Child Care reached a tentative agreement on October 21, 2019, for a two-year successor MOU and SEIU Child Care membership subsequently ratified the tentative agreement.

ANALYSIS:

The following are the highlights that reflect the terms and significant economic items included in the tentative agreement between the City and SEIU Local 2021 – Child Care. In addition to the economic items, some operational items were also addressed in the successor MOU.

- 1. Term of the Agreement:** November 1, 2019 through October 31, 2021.
- 2. Salary Increase:** Job classes represented by this bargaining group will receive a 2.0% base wage increase in each year of the agreement.
- 3. One-Time Payment:** Employees represented by the bargaining group will receive a one-time, non-pensionable Expedited Bargaining Payment of \$4,000 split as follows:
 - a) \$2,000 effective the first full pay period following November 1, 2019 or the first full pay

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

period following Council ratification of a new MOU, whichever occurs later, and

b) \$2,000 effective the first full pay period following November 1, 2020.

These two (2) payments will not contribute to Classic or PEPRA employees' pensions and are subject to normal payroll taxation. This payment is limited to the two years cited in the resolution and is not scheduled to recur in the future.

The one-time payments for part-time employees will be prorated based on the full-time equivalent (FTE) of the position. For example, an employee filling a half-time or 0.5 FTE position will receive two payments of \$1,000 minus applicable taxes on the same schedule as described above for full-time employees.

- 4. Bilingual Pay:** Employees may be eligible for bilingual in the amount of \$150 per month for full fluency in a foreign language and their use of this skill to provide services for the City (pro-rated for part-time employees).
- 5. Floating Holidays:** In addition to the holidays currently designated in the MOU, employees in the Unit will receive two (2) floating holidays each calendar year (pro-rated for part-time employees).
- 6. Non-Economic Items:** In addition to items discussed above, agreement was reached on other proposals, which reflect minor changes to existing provisions with little or no significant cost. The attached draft MOU includes all of the changes agreed to by the parties. These negotiated MOU sections include:
 - Reopener related to Reorganization of City's Childcare Program (New Language): The City anticipates it may need to restructure the Childcare program in the event that the Miller Creek School District implements full-day kindergarten classes. In anticipation of this, the Parties agree to meet and confer to the extent required by the MMBA upon the request of the City regarding any plan to reorganize the Childcare Program during the term of this MOU.
 - Notice to Employees & Union Orientation (Section 1.2.3 & 1.2.4): Clean up language regarding Union access to new employees.
 - Union Dues (Sections 2.2.1 and 2.2.3): Clean up language regarding collection of membership dues and elimination of Agency Shop provision to comply with new legislation.
 - City Paid Employee Retirement (Section 4.5.2) – Clean up language. Employees in MCERA are already contributing an additional 1% towards the normal cost of pension.
 - Emergency/Smoke Leave (New Language): In the event that an emergency is declared that impacts Child Care facilities or operations and results in the closure of any facilities, employees will be granted leave and will be compensated for their regularly scheduled work day. Employees may be required to report to a worksite other than their regular worksite to assist in emergency duties or to a non-impacted child care worksite for childcare duties at the discretion of the City.

FISCAL IMPACT:

The current total annual salary and benefit cost to the City for the 36.40 full-time equivalent (FTE) positions of SEIU is \$2,506,229. The additional ongoing incremental cost of the successor MOU beyond the current year is:

	<u>Incremental</u> <u>Yr 1 (2019-20)</u>	<u>Incremental</u> <u>Yr 2 (2020-21)</u>
Wages:		
Base Salary (2%)	\$29,530	\$30,121
Annual % change	(2%)	(2%)
Bilingual Pay:	\$12,960	- 0 -
Other costs:		
Pension*	\$14,498	\$11,900
Taxes (Medicare, W/C)	<u>\$ 1,064</u>	<u>\$ 746</u>
Total Incremental Cost:	\$58,052	\$42,767

**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 \$58,050 for Year 1 and \$42,767 for Year 2, the increases are compounding and therefore the projected total salary and benefit cost increase for the items specified above is \$158,871 for the two-year term. In addition, there is a cost of \$145,600 in one-time payments. These one-time payments will not contribute to employee Classic or PEPRA pension costs. The increase in compensation included in this resolution is in line with the City’s current budget projections and is within the current salary growth assumptions used by MCERA in the most recent actuarial valuation which is used to establish pension contribution rates and measure pension liabilities. 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:

- Direct staff to return at the next meeting with a resolution seeking approval of the MOU between the City of San Rafael and SEIU Local 1021 – Child Care.
- Direct staff to return with more information.

RECOMMENDED ACTION:

Staff recommends that the City Council take public comments, and direct staff to return at the next meeting with a resolution seeking approval of the Memorandum of Understanding between the City of San Rafael and SEIU Local 1021 – Child Care Unit pertaining to compensation and working conditions (November 1, 2019 through October 31, 2021).

ATTACHMENTS:

- Draft MOU between City of San Rafael and SEIU Local 1021 – Child Care Unit for November 1, 2019 through October 31, 2021 (and all attachments)

MEMORANDUM OF UNDERSTANDING

between

CITY OF SAN RAFAEL

and

SEIU Local 1021 – Child Care Unit

November 1, 20196 through October 31, 202119

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Exhibit A Salary Schedule for November 1, 2016 – October 31, 2019

MEMORANDUM OF UNDERSTANDING

between the

CITY OF SAN RAFAEL and

SEIU LOCAL 1021 – CHILD CARE

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 parties 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 agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding 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 November 1, 201~~96~~ and ending October 31, 20~~21~~~~19~~.

1 GENERAL PROVISIONS

1.1 INTRODUCTION

1.1.1 *Scope of Agreement*

The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City of San Rafael (herein-after called "CITY") and the Service Employees International Union (SEIU) Local 1021 (herein-after called "UNION") and shall apply to all employees of the City working in the classifications and bargaining unit set forth herein.

1.1.2 *Term of MOU*

This agreement shall be in effect from November 1, 201~~96~~ through October 31, 20~~21~~~~19~~.

1.2 RECOGNITION

1.2.1 *Bargaining Unit*

The City hereby recognizes the Union as bargaining representative for the purpose of establishing salaries, hours, fringe benefits and working conditions for all employees within the Child Care Bargaining Unit (see Exhibit A attached)

1.2.2 *Classification Specification*

The City and the Union agree that the classification specifications developed as a part of this meet and confer process, and dated January 1988, accurately describe the job classes covered by this Memorandum of Understanding.

1.2.3 *Notice to Employees*

Whenever a person is hired in any of the job classifications set forth herein, the City shall notify such person that the Union is the recognized bargaining representative for employees in that classification.

~~The City shall provide contact information for SEIU representatives to new employees in union-covered positions and will allow a union representative to meet with the new employee(s) for up to 10 minutes at a time mutually convenient to the departments and the employees. Such meeting time will be subject to supervisor approval.~~

1.2.4 *Orientation Letters* New Employees

The bargaining unit shall provide to the City a supply of Union Orientation letters. The City shall distribute said letter to all new employees covered by this Memorandum of Understanding during its formal New Employee Orientation Process. The City shall make available up to 30 minutes, at a mutually agreeable time, during the initial thirty (30) days of employment for new employee orientation by the Union. The City and the Union intent that time (i.e., up to 30 minutes) will occur at employee orientation whenever possible. The City shall approve at least one hour release time to the Union's designee to travel to and meet with the new employee(s). The City will provide the Union at least ten (10) days' advance notice of all employee orientations conducted by the City unless a shorter time is required due to an urgent need critical to the City's operations and that urgent need was not reasonably foreseeable.

The City shall provide the Union with the employee name, job title, department, work location, work, home and personal cell phone numbers, ome address and personal email address on file with the City for all employees within the bargaining unit every 120 days and a report listing this same information within 30 days of the date of hire for any newly hired unit employees.

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 race, color, age, religion, ancestry, national origin, sex, sexual orientation, perceived sexual orientation, gender, gender expression, gender identity, marital status, medical condition (cancer-related or gender 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 of San Rafael's Policy Against Harassment, Discrimination and Retaliation to redress the situation. Such employees shall be entitled to Union representation but are not entitled to seek redress using the grievance procedure of this MOU.

1.3.2 *Union Discrimination*

No member, official, or representative of the Union 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 the Union.

1.4 INSPECTION OF MEMORANDUM OF UNDERSTANDING

Both the City and the Union agree to keep duplicate originals of this Memorandum on file in a readily accessible location available for inspection by any employee or member of the public upon request.

1.5 EXISTING LAWS, REGULATIONS & POLICIES

This agreement is subject to all applicable laws of the State of California, ordinances, regulations, and policies of the City of San Rafael.

1.6 STRIKES & LOCKOUTS

During the term of this Memorandum, the City agrees that it will not lock out employees, and the Union agrees that it will not agree to, encourage or approve any strike or slowdown growing out of any dispute relating to the terms of this Agreement. The Union will take whatever lawful steps are necessary to prevent any interruption of work in violation of this Agreement, recognizing with the City that all matters of controversy within the scope of this Agreement shall be settled by established procedures set forth in the City's charter, ordinances, and regulations, and may be amended from time to time.

1.7 SEVERABILITY

If any article, paragraph or section of this Memorandum 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 Memorandum 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 PREVAILING RIGHTS

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 Memorandum of Understanding, shall remain in full force and effect throughout the term of this Agreement.

1.9 FULL UNDERSTANDING, MODIFICATION, WAIVER

1.9.1 Understanding

The parties jointly represent to the City Council that this Memorandum of Understanding set forth the full and entire understanding of the parties regarding the matters set forth herein.

1.9.2 Waiver & Modification

Except as specifically otherwise provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required to meet and confer with respect to any subject or matter covered herein, nor as to wages or fringe benefits during the period of the term of this Memorandum.

The foregoing shall not preclude the parties hereto from meeting and conferring at any time during the term of this Agreement with respect to any subject matter within the scope of meeting and conferring by mutual agreement.

2 MMBA

2.1 UNION RIGHTS

2.1.1 Union Stewards Designation

The Union shall, by written notice to the City Manager, designate certain members as Employee Representatives. Employee Representatives shall be permitted reasonable time for Union activities including grievance representation. In all cases, the Representative shall secure permission from the Representative's supervisor before leaving a work assignment. Such permission shall not be unreasonably withheld.

Employee Representatives for salary discussions shall be in accordance with Meyers-Milias-Brown (MMB) Act.

2.1.2 Bulletin Boards

Authorized representatives of the Union shall be allowed to post Union notices on specified bulletin boards maintained on City premises.

2.2 DUES DEDUCTION

2.2.1 Collection of Dues

(a) The City agrees, upon written consent of the employee involved, to deduct voluntary Union dues, COPE, or other Union sponsored programs and, ~~upon written consent of the employee involved, to deduct voluntary union deductions~~ selected by members, as established by the Union, from the salaries of its members. Dues and other voluntary contributions will be for a specified amount and will

be made based on the information provided by the Union of employees in the Child Care Unit certified by the Union as having affirmatively authorized dues and other voluntary union deductions. The authorization of dues and other voluntary deductions will be made by the City based on the information provided by the Union.

(b) Voluntary deductions for dues, COPE, or other Union-sponsored programs shall start the pay period after the City receives written notification of the authorization from the Union. The sums to be withheld. The sums so withheld shall be remitted by the City, without delay, along with a list of employees and their respective dues and voluntary deductions. The Union bears responsibility for allocating dues and voluntary deductions pursuant to employees' requests.

(c) Requests to authorize voluntary dues/other deduction(s), the specific amount of each such deduction(s), or requests to change status or amount of such deductions, shall be directed to the Union rather than the City. The City shall rely on the Union's explanation in a written certified list, submitted by a representative of the Union who has authority to bind the Union regarding whether an authorization/change in deduction(s) has been requested by the employee.

(d) The City shall not request the Union to provide a copy of any member employee's authorization unless a dispute arises about the existence or terms of the authorization. To the extent required by the Government Code, or otherwise required by law, the City will rely on the information provided by the Union in processing dues deductions for Union employees. The Union is responsible for providing the City with timely information regarding changes to member employees' dues deductions.

(e) Dues deductions, once initiated, will continue until the employee's authorization is revoked in writing by the employee. An employee may only revoke a dues deduction authorization by delivering to the Union a written notice of revocation to the Union. The authorization or cancellation of dues and other deductions will be made by the City based on the information provided by the Union.

(f) The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues or service fees check-off authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status for during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Union dues.

~~The Union shall notify the City in writing as to the amount of such dues uniformly required of all members of the Union.~~

~~Moneys withheld by the City shall be transmitted to the Treasurer of the Union at the address specified. The Union 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 Union shall refund to the City any amount paid to it in error upon presentation of supporting evidence.~~

(g) The Union will indemnify, defend, and hold harmless the City, its officials, representatives, and agents from and against any liability arising from any claims, demands, or other action relating to the City's compliance with this Section 2.2.1.

(h) The Union alone may grieve the City's failure to timely transmit the appropriate amount of voluntary union deductions. However, any other dispute regarding this section of the MOU is not subject to the grievance procedures contained in this MOU between the parties, including whether the employee authorized the deduction, the amount of the deduction, or whether the employee tried to revoke the authorization.

2.2.2 Dues Collection during Separation from Employment

The provisions specified above (Section 2.2.1.) shall not apply 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 of more than five (5) working days.

~~2.2.3—Agency Shop~~

~~The parties hereto recognize that within the Agency shop provisions of this agreement, unit employees may opt to join the union or register as a fee payer during the first thirty (30) days of their employment. Neither the City nor the Union will discriminate against any employee because of the exercise of their statutory rights. The Union agrees to its obligation to represent all of the employees in the unit fairly and equally, without regard to their membership in the Union.~~

~~Therefore, effective August 1, 1992, any employee of the City as of August 1, 1992, who is a member of the Union on August 1, 1992, or who subsequently joins, and all employees in the Unit hired on or after that date or who do not make application for membership within thirty (30) days of the effective date of this Section or thirty (30) days of the commencement of assigned duties shall, as a condition of continued employment, either be required to belong to the Union or to pay to the Union an amount equal to a fair share percentage of that which would be paid by an employee who decides to become a member of the Union at the time of employment, as a condition of employment, shall pay an agency fee to the Union. If an employee does not make application for membership within the prescribed time, the employee shall be notified by the City or Union that he or she is required by the collective bargaining Agreement to pay an agency fee to the Union. To accomplish that, the employee will be asked to prepare an application card. If the employee refuses to complete an application card, the default option shall be an automatic enrollment as an agency fee payer. The City shall deduct the agency fee from that employee's paycheck.~~

~~—Note: The Union is obligated to annually inform the City of the fair share amount.~~

~~The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues or service fees check off authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Union dues.~~

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 Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of this Memorandum of Understanding. The sole and exclusive rights of management, as they are not abridged by this Agreement 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 (after effect bargaining) 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 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;
12. To determine job classifications and to reclassify employees;
13. To hire, transfer, promote and demote employees in accordance with this Memorandum of Understanding and the City's Rules and Regulations;
14. To determine policies, procedures and standards for selection, training and promotion of employees;
15. 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;
16. To maintain order and efficiency in its facilities and operations;
17. 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 Agreement;
18. To take any and all necessary action to carry out the mission of the City in emergencies.

The City and the Union 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 acts, and/or Federal law, the City shall have the duty to meet and confer with the Union 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 Union through the submittal of potential meeting dates.

3 COMPENSATION

3.1 GENERAL WAGE INCREASE

~~Effective upon City Council adoption of this MOU, a new Step E will be implemented at 5% above the current Step D in the salary schedule for all job classifications in this bargaining group. Employees are~~

~~eligible to advance to Step E on their anniversary date after having spent at least two years at Step D. Employees who are eligible for advancement to the new Step E in 2017 shall advance as follows:~~

- ~~• Employees hired before January 1, 2000, who have been at step D for at least 2 years, will advance to Step E effective the first full pay period following Council adoption of this new agreement;~~
- ~~• Employees hired on or after January 1, 2000, who have been at step D for at least 2 years, will advance to Step E effective the first full pay period in July 2017.~~
- ~~• Effective the first full pay period in November 2018, the City will increase base wages for all employees by 1.0%.~~

~~Effective the first full pay period in November 2019 or the pay period in which the ratified MOU is first read in open session, whichever is later, the City will increase base wages for all employees by 2%.~~

~~Effective the first full pay period in November 2020, the City will increase base wages for all employees by 2%.~~

3.2 ONE-TIME EXPEDITED BARGAINING PAYMENT

The following one-time payment is limited to the ~~two (2)~~three years cited in this agreement and is not scheduled to recur in the future:

~~Full-time employees represented by the bargaining group will receive a one-time Expedited Bargaining Payment in the amount of \$2,500, split as follows: \$1,000 will be paid upon City Council adoption of the MOU, \$500 will be paid in the first pay check in December of 2017 and \$1,000 will be paid in the first pay check in December of 2018. Part-time employees will receive the one-time payment on a prorated basis on the same schedule identified. This one-time payment will not contribute to employees' pensions and is subject to normal payroll taxation. Effective the first full pay period following November 1, 2019 or the or the pay period in which the ratified MOU is first read in open session, whichever is later, each employee in the bargaining unit will receive a one-time expedited payment of \$2,000.~~

~~Effective the first full pay period following November 1, 2020, each employee in the bargaining unit will receive a one-time expedited payment of \$2,000.~~

~~These two (2) payments will not contribute to employees' pensions and are subject to normal payroll taxation. The one-time money payments for part-time employees will be prorated based on the full-time equivalent of the position.~~

3.3 STEP INCREASES

Except as provided below, when considering a step increase for Child Care Program employees, he/she must have at least one year of satisfactory service and have worked a minimum of 700 hours during the preceding year and receive a positive evaluation from his/her supervisor. If said employee does not qualify for a step increase after each year of service, he/she will be considered for that increase upon the completion of the minimum 700-hour requirement.

Employees are eligible to advance to Step E on their anniversary date after having spent at least two years at Step D.

3.4 MERIT INCREASES

Employees at the maximum step of their salary range may be granted a merit performance award of five percent (5%) above and beyond their salary range. A merit performance award may be effective for up to one (1) year. A merit performance award may be withdrawn and is not a disciplinary action and is not appealable.

3.5 SPECIFIED WAGE ADJUSTMENTS / DIFFERENTIALS

3.5.1 Salary Range Differentials

A 12.5% salary range differential between top step Instructor II and beginning step of Director and create an 11% salary range differential between top step Instructor I and beginning step of Instructor II.

3.5.2 Split Shift Pay Differential

Child Care workers covered by this MOU who have a two-hour or more break in shifts during the same day will receive a .5 hour premium pay for that day.

3.6 ADDITIONAL PAY

3.6.1 Educational Reimbursement

An Educational Reimbursement Program is available to employees for courses that are: job related, assist the employee in meeting State licensing requirements and/or prepare the employee for career advancement in the child care field.

The reimbursement may not exceed 75% for the cost of the course, up to \$300 per fiscal year maximum. The Educational Reimbursement Program also includes an additional reimbursement of up to \$60 per fiscal year for professional membership dues for work-related organizations for employees.

To be eligible to receive reimbursement under this program the employee must:

- a. submit a written request and receive prior approval from the Recreation Supervisor for the Child Care Program
- b. be regularly scheduled to work 20 hours or more per week
- c. have completed initial probation before reimbursement is received; and
- d. satisfactorily complete the course.

3.6.2 Bilingual Pay

Employees in this unit may receive bilingual pay for full fluency in a foreign language and their use of this skill to provide services for the City. Full fluency is defined as a skill level that will allow the employee to fully assist a member of the public who does not speak English by translating for, conversing with, and/or reading or writing written material.

An employee can petition their Department Director for this bilingual pay incentive. The Department Director will review and make a recommendation to the Human Resources Director and City Manager. If approved, the employee will receive an additional \$150 per month above their base salary. Part-time employees will be pro-rated for this incentive based on their full-time equivalency (FTE).

Approval of bilingual pay incentive by the City Manager Includes:

1) Certification by a recognized school of the appropriate skill level and/or demonstrated ability of the proficiency level on the job; and

2) Department Director's recommendation and statement that bilingual skill of the employee can be of value to the Department and to the employee in the completion of their regular work assignments.

The 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 completion of their regular work assignments.

d. Removal of this 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.

4 BENEFITS

4.1 EMPLOYEE BENEFITS COMMITTEE

Both parties agree to continue to utilize the Employee Benefits Committee for ongoing review of benefit programs, cost containment and cost savings options. The Committee shall be made up of representatives of SEIU, SEIU-Child Care, Association of Professional Employees (WCE), Local 1 - Confidential, Police, Police Mid-Management, Fire, Fire Chief Officers, Mid-Management and Management employees.

4.2 HEALTH & WELFARE

4.2.1 Full Flex Cafeteria Plan

Effective January 1, 2010, the City implemented a full flex cafeteria plan (known as the Flexible Benefits 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 December 15, 2016 is:

For employee only:	\$ 745.00
For employee and one dependent:	\$ 1,056.00
For employee and two or more dependents:	\$ 1,083.00

NOTE: For part time employee flex dollar allowances, see Section 4.2.3.

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 insurance coverage or may be converted to taxable income.

Flex dollar allowances for the Employee +1 and Family level contribution shall increase on the December 15th paycheck of each 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.

Conditional Opt-Out Payment: An employee may elect to waive the City's health insurance coverage and receive \$300 in monthly Opt-Out payment in accordance with the terms of the cafeteria plan and 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.

4.2.2 *Life Insurance*

Effective January 1, 2010, the City shall be responsible for paying premiums for a life insurance and Accidental Death and Dismemberment (AD&D) policy for each employee. The life and AD&D policy shall provide a \$5,000 life insurance and a \$5,000 AD&D benefit. The City shall also make available a voluntary life insurance program at employee expense.

4.2.3 *Long Term Disability Policy*

Effective January 1, 2010, the City shall be responsible for paying premiums for a Long Term Disability Policy for each employee that satisfies the eligibility provisions of the long term disability policy. The Long Term Disability policy shall provide for salary replacement of 66.67% of an individual's salary up to a maximum disability benefit of \$1,000 per month.

4.2.4 *Retirees Health Insurance*

Employees represented by the Union who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's retiree group health insurance program offered through PEMHCA. The City's contribution towards retiree coverage shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

a. Longevity Payment for Employees hired on or before January 1, 2010

The City shall make a monthly longevity payment into a Retiree Healthcare Reimbursement Trust (Retiree HRA Trust) on behalf of employees hired before January 1, 2010 and who retire from the City of San Rafael as described in this Section. The City's monthly contribution to the Retiree HRA trust shall not exceed \$543 per month. The City's contribution towards a retiree's Retiree HRA Trust account shall continue for the lifetime of the retiree and retiree's spouse, in accordance with PEMHCA eligibility provisions for coverage.

- b. Employees hired on or after January 1, 2010** and who meet the eligibility requirements for retiree health insurance are eligible to continue in the City's group health insurance program. The City's maximum contribution towards retiree coverage under this subsection, 3.1.5 B, shall be the PEMHCA minimum contribution as determined by CalPERS on an

annual basis. 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 upon the employee's retirement from the City in excess of the PEMHCA minimum contribution as required by CalPERS.

The City shall additionally make available a retiree health care trust to enable these employees hired on or after January 1, 2010 to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by 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.

4.2.5 *Pro Rata Benefit Rules*

Employees covered by this Agreement who work less than full time but more than twenty (20) hours per week on a regular basis shall be eligible to receive: a) pro-rated leave benefits; b) a pro-rated share of the monthly dollar contribution made by the city to be used for enrollment in city offered group health, life, and long term disability insurance plans which the employee may be eligible for based upon the regular hours the employee works, and c) pro-rated share shall be equivalent to the part time employee position's ratio of hours worked to full time equivalency.

For those part time employees hired prior to January 1, 2010, the flex dollar allowance shall be pro-rated based off of \$909 per month. For those electing "Employee Only" coverage, the maximum benefit for these part time employees shall be \$650 per month.

4.2.6 *Health and Dependent Care Spending Accounts*

City will offer Flexible Spending Accounts as part of its Section 125 Plan for as long as such a plan is desired by the Union and available under 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 Accounts: 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.

City shall establish annual enrollment period and each employee must re-enroll annually for either plan noted in a. and/or b. 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.

4.2.7 *Health Insurance Providers*

The City shall have the option, after meeting and consulting with representatives of the Union Stewards' Council, 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 will provide a dental insurance program for all full-time and part-time, permanent employees regularly scheduled to work a minimum of 20 hours per week.

All employees enrolled in the dental insurance program will be enrolled in the subgroup that provides \$1,500 maximum benefit for one Dental Expense Period for all covered dental expenses, for all eligible enrollees, except for Orthodontic Treatment which has an aggregate maximum benefit (lifetime) of \$1,000 and is limited to eligible dependent children. The City will pay the full cost of the monthly dental insurance premium for full-time employees, including those with a 35-hour full-time position. For the eligible part-time, permanent employees enrolling in the City's group dental insurance program, the City will pay the first \$70 per month of the actual premium rate for the eligible part-time, permanent employees and the enrolled employee will be responsible through payroll deduction for the balance of the monthly premium. In the event of an increase in the dental insurance premium, the City payment of eligible part-time, permanent employees shall be increased to maintain the same dollar differential between full-time and part-time. The plan shall cover enrollment for eligible employees and their eligible dependents. Refer to the dental insurance policy booklet for eligibility requirements and specific coverage and other benefit limitations.

4.4 VISION PLAN

The City will provide vision care benefits for employee only coverage. Employees may enroll qualified family members and pay the premium costs for such enrollment.

4.5 RETIREMENT CONTRIBUTION

4.5.1 Eligibility

All employees whose full-time equivalency (FTE) is $\frac{3}{4}$ of a full-time equivalent in their classification shall be eligible members of the Marin County Retirement Association. Employee rates shall be set according to MCERA policy. All other employees (except those noted above) shall be enrolled in the Public Agency Retirement System (PARS) as long as that remains an approved alternative to Social Security.

4.5.2 City Paid Employee Retirement (City Paid Member Contribution)

Bargaining unit, members shall pay the full share of the employee's contribution to the Marin County Retirement System. The employee's share of their contribution shall be paid by the employee through automatic payroll deductions. ~~Effective when feasible~~ in accordance with [the Marin County Employees Retirement Association \(MCERA\)](#) and City administrative requirements, all unit employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by ~~MCERA~~[the Marin County Employees Retirement Association](#), in addition to the current employee contribution towards pension as determined by MCERA.

The City of San Rafael acknowledges that under its current practice, the employees' share of their retirement contribution is deducted with pre-tax dollars. This practice will continue until changed through the Meet and Confer process or until IRS regulations change.

4.5.3 Retirement Plans

On January 1, 2007, the City shall provide the Marin County Employee Retirement Association 2.7% at 55-retirement program to all eligible miscellaneous members, as defined under the 1937 Act Government Code Section 31676, subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws that govern such plans. This is based on an employee's single highest year of compensation.

Employees hired on or after January 1, 2012, 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. (Sections 4.5.3, 4.5.4, 4.5.5)

4.5.4 *Member Cost of Living Rates*

Effective January 1, 2007, bargaining unit members who are eligible to participate 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. Contribution rates include both the basic and COLA portions (50% of COLA is charged to members as defined in the 1937 Act).

4.6 DEFERRED COMPENSATION PLAN

Child Care Unit employees who are contracted to work 35 hours or more each week are eligible to participate in the City’s Deferred Compensation Plan.

4.7 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 then, if necessary, vacation leave on time cards 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 they 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 (except during qualifying FMLA/CFRA leave) if they choose to remain in the group plans.

5 LEAVES

5.1 SICK LEAVE

5.1.1 Eligibility

Sick leave with pay shall be granted to each eligible employee. Sick leave shall not be considered a privilege which an employee may use at 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 at the beginning of his/her daily duties. Every employee who is absent from his/her daily duties for two (2) or more consecutive days may be requested by the supervisor to provide a physician's certificate. The inability or refusal by said employee to furnish the requested information, as herein required, shall constitute good and sufficient cause for disciplinary action, including dismissal.

5.1.2 Sick Leave Accrual

Eligible employees shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment (based on the daily hours an eligible employee has contracted to work).

5.1.3 Use of Sick Leave

An employee may use accrued sick leave during their probationary period. An employee eligible for sick leave with pay shall be granted such leave for the following reasons:

1. Personal illness or illness within the immediate family (as defined by the CAL-PERS health insurance regulations, including but not limited to the employee's spouse, registered domestic partner, unmarried children, including adopted child, stepchild or recognized natural child who lives with the employee in a regular parent-child relationship, parent, including in-laws, and grandparents), or for any physical incapacity resulting from causes beyond the employee's control; or
2. Enforced quarantine of the employee in accordance with community health regulations; or
3. Medical appointments that cannot be scheduled during non-working hours.

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 unaccrued at the time of such separation shall reimburse the City of all salary paid in connection with such unaccrued leave.

5.1.5 Service Credit for Sick Leave

Employees retiring from city service, within 120 days of leaving their position (excludes deferred retirements), and who will be receiving an ongoing retirement annuity from the Marin County Employees' Retirement System can receive 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 which they elect to receive in the form of compensation for at the time of retirement pursuant to Section 5.1.6 Compensation for Unused Portion.

Employees hired on or after October 31, 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

Upon termination of employment by retirement (must retire within 120 days of leaving their City position, i.e., age and service eligible for retirement. Minimum 50 years old and 10 years of continuous service) or death, an eligible employee who leaves the City service in good standing shall receive compensation for all accumulated unused sick leave based upon the rate of three percent (3%) for each year of service, to a maximum of fifty percent (50%). The maximum accrual for payoff purposes is 150 days (based on employee’s contracted work hours per day.

See Section 5.1.5 above for service credit eligibility for unused portion of sick leave.

5.2 VACATION LEAVE

5.2.1 Eligibility

Annual vacation with pay shall be granted to eligible employees. Vacation accrual shall be prorated for those employees working less than full time. Vacation leave does not accrue to those working in the Child Care Temporary class. Vacation benefits may be taken as accrued and provided in Section 5.2.2. below. Probationary employees may take accrued vacation if authorized by the Department Director and approved by the City Manager.

5.2.2 Rate of Accrual

Vacation benefits shall accrue during the probationary period. However, use of accrued benefits shall not be allowed until the successful completion of the probationary period, unless specifically authorized by the Department Director and City Manager. Eligible employees shall commence to accrue vacation at the following rate for continuous service: Each service year on the chart begins in the first working day and ends on the last day of the service year.

SERVICE YEAR	ANNUAL ACCRUAL
1	10 days
2	10 days
3	10 days
4	15 days
5	15.75 days
6	16.50 days
7	17.25 days
8	18.00 days
9	18.75 days
10	19.50 days
11	20.00 days
12	21.00 days
13	22.00 days
14	23.00 days

15	24.00 days
16 plus	25.00 days

Note: Vacation accrual rates shall be based on the daily hours an employee has contracted to work. If the employee's work day is six (6) hours, the employee will accrue ten (10) six-hour vacation days.

5.2.3 Administration of Vacation Leave

The City Manager, upon the recommendation of the Department Director, may advance vacation credits to any permanent regular and permanent part-time employee. The time at which an employee may use his accrued vacation leave and the amount to be taken at any one time shall be determined by the employee's Department Director with particular regard for the needs of the City but also, insofar as possible, considering the wishes of the employee.

In the event that one or more City holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave and the vacation leave shall be extended accordingly.

Employees who resign from City service shall be paid in a lump sum for all accrued vacation leave earned prior to the effective date of termination.

The vacation accrual cap for all employees accruing vacation shall be 250 hours.

5.2.4 Vacation Cash-In

An employee who has taken at least ten (10) days of vacation in the preceding twelve (12) months may request, in May or November in any fiscal year, that accrued vacation, not to exceed seven (7) days, be converted to cash payments and the request may be granted at the discretion of the City Manager. Employees cannot cash in more than seven (7) days of vacation in any one twelve (12) month period.

5.3 HOLIDAYS

5.3.1 Paid Holidays

Employees shall be granted the following holidays:

January 1 st	New Year's Day
The third Monday in January	Martin Luther King Jr. Day
The third Monday in February	Washington's Birthday
March 31 st	Cesar Chavez Day
The last Monday in May	Memorial Day
July 4 th	Independence Day
The first Monday in September	Labor Day
November 11 th	Veteran's Day
The fourth Thursday in November	Thanksgiving Day
The fourth Friday in November	Day after Thanksgiving
December 25 th	Christmas Day

At the discretion of the Recreation Supervisor for the Child Care Program, the celebrated City holidays, noted above, will be coordinated with the public schools served by the Child Care Centers and/or those

holidays falling on a Saturday or Sunday will be observed on either the Friday before or the Monday after pursuant to the City's annual holiday schedule. Part-time employees will be paid for holidays on a pro-rated basis.

5.3.2 Floating Holidays

In addition to the designated holidays, employees in this Unit receive two (2) floating holidays. Floating holidays not used by the end of the calendar year will be added to an employee's vacation balance in the first full pay period of each January. Part-time employees will be paid for holidays on a pro-rated basis.

5.4 OTHER LEAVE

5.4.1 Bereavement Leave

In the event of the death of an employee's spouse, child, parent, brother, sister, 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 three (3) days within the State and up to five (5) days out-of-state may be granted for bereavement leave.

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.

5.4.2 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.

5.4.3 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.

5.4.4 Leave of Absence Without Pay

Leave of absence without pay may be granted by the City Manager upon the written request of the employee and the recommendation of the Child Care Recreation Supervisor. Accrued vacation leave and if applicable, accrued sick leave, must be exhausted prior to the granting of leave without pay.

5.4.5 Industrial Injury Leave

For benefits under Workers' Compensation, an employee should report any on the job injury to his/her supervisor as soon as possible, preferably within twenty-four (24) hours. The Human Resources Department coordinates benefits for Workers' Compensation claims. For further information, see the City's Workers' Compensation policy located on the Intranet (<https://intranet.cityofsanrafael.org>).

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 Worker's 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:

- The employee has reached maximum medical improvement and/or has been determined "permanent and stationary."
- 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:

- The interactive process; attempt to locate other appropriate employment within the City
- If none available, proceed with termination process, including disability retirement application and/or Skelly process, if appropriate.

5.4.6 Family Medical Leave

Union members agree to adhere to the provisions of the City's Family Medical Leave Policy which is available on the City's Intranet Website.

5.4.7 Catastrophic Leave

Catastrophic Leave shall be in accordance with City Catastrophic Leave Policy which is available on the City's Intranet website.

5.4.8 Emergency/Smoke Leave

In the event that an emergency is declared that impacts the City Child Care facilities or operations and results in the closure of any facilities, employees in this bargaining unit will be granted leave and compensated for the regularly scheduled work day with no adverse effect on the employee.

Employees may be required to report to a worksite other than their regularly scheduled worksite to assist in emergency duties or to a non-impacted child care worksite for childcare duties at the discretion of the City.

This provision applies to Federal, State, County, or City declared emergencies or other non-declared circumstances that result in the closure of District schools.

6 TERMS & CONDITIONS OF EMPLOYMENT

6.1 HOURS OF WORK

The work week for Child Care Center Directors shall be 37.5 hours per week and 35.0 hours per week for Child Care Instructors I and II.

Within the hours of operation, changes in the days or hours of the regular work schedule of an employee shall be posted at least seven (7) days in advance. No advance notice to employees by the City of schedule changes will be required when changes occur as a result of work related emergencies, i.e., multiple sicknesses, disabilities or injuries; or staff shortage occurring less than seven days in advance or due to unplanned changes in school operations or schedules beyond the control of the City.

6.2 STAFF DEVELOPMENT / TRAINING DAYS

Effective July 1, 1995, four (4) days of staff development/preparation will be provided per fiscal year. The scheduling of these days during the fiscal year will be accomplished through the recommendation of the Child Care Center Directors and approval of the Recreation Supervisor for the Child Care Program.

6.3 OVERTIME

Overtime shall mean actual time worked beyond the standard scheduled workday or work week used for full-time employees as defined per job classification. A work or duty week shall be defined as seven (7) consecutive calendar days, beginning 0001 hours Sunday through 2400 hours Saturday.

Overtime is compensable to the nearest half-hour, and must have prior authorization and approval of the Department Director.

6.4 COMPENSATORY TIME POLICY

With the Department Director's approval, compensatory time, in lieu of overtime pay, may be taken subject to the following rules:

6.4.1 *Accrual Limit*

Upon accrual of time, five (5) days or forty (40) hours of compensatory time, employees shall be paid overtime at a rate of time and one-half of their base salary rate for hours worked and may not accrue additional compensatory time.

6.4.2 *Overtime Rate*

Employees who work overtime must be paid at the rate of time and one-half or may accrue compensatory time at a rate of time and one-half subject to the limitations in 6.4.1. Employees who elect compensatory time must take the time off, preferably within the quarter during which it was earned.

6.4.3 *Use & Carry Over*

All compensatory time earned during the fiscal year must be used by June 30th of that year with one exception. Upon the recommendation of the supervisor and approval of the Department Director, employees may carry over up to forty (40) hours of compensatory time provided it is taken within the following quarter (7-1 to 9-30).

6.5 PROBATION

All employees hired on or after January 16, 1986, shall be required to serve a probationary period of one (1) year and shall serve a one year promotional probationary period when appointed to a higher job classification.

6.6 TEMPORARY PROMOTIONS

Employees assigned to work out of class and perform the work of a Child Care Center Director for a period of three consecutive days or longer, will be compensated at an hourly rate of five percent (5%) greater than the employee's current rate, or at the lowest step of the Child Care Center Director's salary range, whichever is greater. The increase shall be retroactive to include the first day.

6.7 PERSONNEL RULES & REGULATIONS

6.7.1 *Harassment Policy*

It is the City's intent and purpose to provide all officials, employees, applicants, and contractors with an environment that is free from any form of harassment, discrimination or retaliation. Employees shall refer to the City Policy against Harassment, Discrimination and Retaliation which is available on the City's Intranet website.

6.7.2 *Drug & Alcohol Policy*

The employees covered by this bargaining agreement agree to abide, as a condition of employment, by the terms of the City's Drug Free Work Place Policy which is available with the City's policies and on the City's Intranet website.

6.8 MISCELLANEOUS

6.8.1 *CPR / First Aid Training*

An annual program for cardiopulmonary resuscitation (CPR) and First Aid certification will be provided for persons working as Child Care Directors and Instructors II.

6.8.2 *Gratuities / Solicitation of Contributions*

No employee shall receive, request, solicit, or demand gratuities from any citizen or company for services provided by the City. Such action shall be considered grounds for disciplinary action up to and including dismissal.

6.8.3 *Labor / Management Meetings*

During the term of the Agreement, the City and the Union agree that consultation meetings may contribute to improved employer-employee relations. Issues relating to the cost of living in Marin County, job classes within the City and promotional opportunities may serve as a basis for initial agenda items to be discussed.

The committee shall be comprised of three (3) representatives from the Child Care Unit and three (3) from City Management as well as the Union staff and the Human Resources Director. 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. It is intended that the subject matter will not include issues subject to Grievance Procedures outlined in this MOU and this language is not intended to create a re-opener clause in this MOU.

6.8.4 *Child Care Division Employee Program Discount*

All Child Care Division staff with children enrolled in any City of San Rafael Child Care Division program will receive a 50% discount on program fees based on their level of enrollment. All policies regarding admission and attendance in the Child Care Program will continue to apply to Child Care staff in accordance with the Child Care Division Parent Handbook and Child Care Staff Handbook.

7 PROCEDURES

7.1 DISCIPLINARY ACTION

7.1.1 Right to Discipline & Discharge

Upon completion of the designated probationary period, an employee shall be designated as a non-probationary employee and the City shall have the right to discharge or discipline any such employee for dishonesty, insubordination, drunkenness, incompetence, negligence, failure to perform work as required or to observe the Department's safety rules and regulations or for engaging during the term of this Memorandum of Understanding, in strikes, individual or group slowdowns or work stoppages, or for violating or ordering the violation of the Memorandum of Understanding. The City shall use progressive disciplinary steps (i.e., reprimand, suspension, demotion, discharge) unless the violation is such as to justify termination. Disciplinary action shall mean discharge/dismissal, demotion, reduction in salary, and suspension resulting in loss of pay.

In addition, the City may discipline or discharge an employee for the following: Fraud in securing appointment; negligence of duty; violation of safety rules; unacceptable attendance record including tardiness, overstaying lunch or break periods; possession, distribution or under the influence of alcoholic beverages, non-prescription or unauthorized narcotics or dangerous drugs during working hours; inability, unwillingness, refusal or failure to perform work as assigned, required or directed; unauthorized soliciting on City property or time; conviction of a felony or conviction of a misdemeanor involving moral turpitude; unacceptable behavior toward (mistreatment or discourteousness to) the general public or fellow employees or officers of the City; falsifying employment application materials, time reports, records, or payroll documents or other City records; misuse of City property; violation of any of the provisions of these working rules and regulations or departmental rules and regulations; disorderly conduct, participation in fights, horseplay or brawls; dishonesty or theft; establishment of a pattern of violations of any City policy or rules and regulations over an extended period of time in which a specific incident in and of itself would not warrant disciplinary action, however, the cumulative effect would warrant such action; failure to perform an acceptable level of work quality and quantity; insubordination; other acts inimical to the public service; inability or refusal to provide medical statement on cause of illness or disability.

7.1.2 Preliminary Notice

A non-probationary employee shall receive a preliminary written notice from the Recreation Supervisor for the Child Care Program of any proposed disciplinary action that involves the loss of pay. The notice must contain a specific statement of charges or grounds upon which the proposed disciplinary action is based and the date the disciplinary action will be effective.

Any known written materials, reports or documents upon which the disciplinary action is based must be attached to the notice.

Upon receipt of the notice, the non-probationary employee shall have five (5) days to appeal the matter in writing in Step 2 of the Grievance Procedure. If a written appeal is filed, no disciplinary action shall be imposed until the Department Director has conducted a hearing with the employee and employee's representative present and has heard the response of the employee. If no written appeal is filed within five (5) days, the employee shall be deemed to have waived his/her right to proceed to Step 4 of the Grievance Procedure.

7.1.3 Disciplinary Action and Appeal

After hearing the response of the employee the Department Director may order that the proposed disciplinary action or modification thereof be imposed. The decision of the Department Director shall be

final and binding for suspensions of five (5) days or less. For suspensions of more than five (5) days, demotions, reduction in pay, and terminations, thereafter, the employee shall notify the City within ten (10) days to appeal the matter to Step 4 (Arbitration) of the Grievance Procedure. The matter shall then proceed in accordance with the Grievance Procedure.

7.2 GRIEVANCE PROCEDURE

7.2.1 Definition

1. **Grievance** is a dispute, which involves the interpretation or application of any provision of this Memorandum of Understanding. 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.
2. **Day** shall mean any that the City Office is open for business, excluding Saturdays, Sundays and the holidays recognized by the City.
3. **Grievant** may be an individual employee or a group of employees or the Union on the behalf of a group of employees or the Union on its own behalf on matters involving the City and Union relationship.
4. **Time limits** begin with the day following the event causing the grievance or the day following receipt of a grievance decision.

7.2.2 Procedure

Step 1

Within seven (7) 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 five (5) 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 five (5) 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 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 ten (10) 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 five (5) days appeal the matter to the City Manager.

The City Manager shall investigate the matter, conduct a hearing if the City Manager deems it appropriate and within ten (10) days, thereafter, respond to the allegations in writing.

Step 4

If the grievance remains unresolved after Step 3, the Union may, by written notice to the City Human Resources Department within ten (10) days after the receipt of the response in Step 3,

notify the City that the Union wishes to appeal the grievance to final and binding arbitration. The parties shall attempt to agree upon an arbitrator. If no agreement is reached, they shall request a list from the State Conciliation Service of nine (9) names.

Each party shall then alternately strike a name until only one (1) name remains, said person to be the arbitrator. The order of striking shall be determined by the flip of a coin.

7.2.3 *Arbitration*

The arbitrator shall be empowered to conduct a hearing and to hear and receive evidence presented by the parties. The hearing shall be informal and need not be conducted according to technical rules of evidence. Repetitious evidence may be excluded and oral evidence shall be taken only under oath. The arbitrator shall determine what evidence is relevant and pertinent, as well as any procedural matters, and he/she may call, recall and examine witnesses, as he/she deems proper.

The burden of proof shall be upon the Union in grievance matters and upon the City in disciplinary/discharge matters.

After the conclusion of any hearing and the submission of any post hearing evidence or briefs agreed upon by the parties, the arbitrator shall render a written decision which shall be final and binding upon the City, the Union and any employee(s) involved in the grievance or disciplinary matter.

The arbitrator shall not be empowered to add to, subtract from, or in any way modify or alter any provision of this Memorandum of Understanding. The arbitrator shall only determine whether a grievance exists in the manner alleged by the grievant, and what the proper remedy, if any, shall be, or in the case of disciplinary/discharge matter whether the City allegations are accurate and the appropriateness of the disciplinary penalty.

The fees and expenses of the arbitrator shall be shared equally by the Union and the City. All other expenses shall be borne by the party incurring them. The cost of the services of court reporter shall be borne by the requesting party unless there is a mutual agreement to share the cost or unless the arbitrator so requests. Then the costs will be shared equally.

7.2.4 *General Provisions*

1. 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 Union or the City.
2. A grievant has the right to be represented at each stage of the procedure, to cross examine witnesses, and have access to all information regarding the basis of the grievance upon which the City relies in making its determinations.
3. If the City management fails to respond within the specified time limits, the grievance shall, at the request of the Union, automatically be moved to the next step of the procedure. If the Union or a grievant fails to process or appeal a grievance within the specified time limits, the matter shall be deemed settled. The parties may by mutual agreement waive the steps in the procedure.
4. If a hearing is held during work hours of employee witnesses, such employees shall be released from duties without loss of pay or benefits to appear at the hearing. Witnesses requested by the parties shall be compelled to attend said hearings.
5. The Human Resources Department shall act as the central repository for all grievances.
6. Time limits contained herein may be extended by mutual agreement of the parties. Absence for bona fide reasons by a grievant, the Union Executive Secretary or any management official

involved in responding to the grievance shall automatically extend the time limits by the same number of days of absence.

7.3 VOLUNTARY TIME OFF (VTO)

An employee may request voluntary time off without pay, in lieu of using accrued vacation and/or sick leave, for a minimum of one full workday and not to exceed ten (10) working days in any calendar year. The needs of the City, specifically the Child Care Division will need to be considered prior to approving a request for VTO.

7.4 REDUCTION IN FORCE

7.4.1 Authority

The Appointing Authority may lay off, without prejudice, any employee covered by this MOU because of lack of work or funds, or organizational alterations, or for reasons of economy or organizational efficiency.

7.4.2 Notice

Employees covered by this MOU designated for layoff or demotion shall be notified in writing at least fifteen (15) calendar days prior to the anticipated date of termination or demotion. The employee organization shall also be notified.

7.4.3 Order of Layoff

Layoffs and/or reductions in force shall be made by classification, consistent with the licensing requirements of the California Department of Social Services. A classification is defined as a position or number of positions having the same title, job description and salary. Extra hire employees shall be laid off before permanent employees in the affected classification. In effecting the preceding order, a part-time permanent employee with more seniority can displace a full-time permanent employee.

7.4.4 Seniority

If two or more employees within a classification have achieved permanent status, such employees will be laid off or reduced 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 classifications(s) is equal, departmental seniority shall be determinative.
- c. If all of the above factors are equal, the date regular status in City service is achieved shall be determinative.
- d. If all of the above are equal, date of certification for appointment shall be determinative.

7.4.5 Bumping Rights

An employee designated to be laid off may bump into a class at the same salary level, for which he or she meets the minimum qualifications or into the next lower classification in which such employee has previously held regular status. An employee who is bumped shall be laid off in the same manner as an employee whose position is abolished.

7.4.6 Transfer Rights

The Human Resources Director 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. The length of eligibility for such transfer will be the period of notification as provided in Section 7.4.2, but no longer than the effective date of such layoff or reduction.

7.5 RE-EMPLOYMENT

7.5.1 General Guidelines

Individuals who have been laid off or demoted shall be offered re-appointment to the same classification in which they held status in the order of seniority in the classification. Individuals demoted in lieu of reduction in force shall be offered restoration to the highest class in which they held status and in which there is a vacancy prior to the appointment of individuals who have been laid off.

7.5.2 Right to Re-Employment

Each person who has been laid off or demoted in lieu of a layoff from a position the person held, shall, in writing, be offered re-appointment in the same classification should a vacancy occur in the classification within two years after the layoff or demotion. Prior to being re-employed, the employee must pass a physical exam administered by a City appointed physician and must pass the background check administered by the City.

7.5.3 Time Limits

Should the person not accept the re-appointment within seven (7) calendar days after the date of the offer, or should the person decline or be unable to begin work within two weeks after the date of acceptance of the offer, the person shall be considered unavailable for employment, shall forfeit the right to re-employment and be removed from the re-employment list.

7.5.4 Availability

Whenever a person is unavailable for re-employment, the next senior person who is eligible on the re-employment list shall be offered re-employment.

7.5.5 Probationary Status

Employees re-appointed under the provisions above will not be required to complete a new probationary period if they had previously held permanent status in the classification. Employees who had not completed their probationary period shall serve the remainder of the probationary period upon re-appointment.

7.5.6 Restoration of Benefits

Employees restored to previously held positions shall be deemed to have returned from a leave of absence for the purpose of all rights and benefits legally permissible. Time not on the payroll will not count as time worked for the purposes of seniority accrual.

8. REOPENER RELATED TO REORGANIZATION OF CITY'S CHILDCARE PROGRAM

The City anticipates it may need to restructure the Childcare program in the event that the Miller Creek School District implements full-day kindergarten classes. In anticipation of this, the Parties agree to meet and confer to the extent required by the MMBA upon the request of the City regarding any plan to reorganize the Childcare program during the term of this MOU, and that this reorganization may include modification of bargaining unit employees' work schedules and the number of hours bargaining unit

employees work under Section 6.1 of the MOU. The City agrees it will notify the Union of its reorganization plans and will provide the Union the right to meet and confer with the City. This section does not waive the Parties' obligations pursuant to the MMBA to negotiate in good faith regarding negotiable subjects.

SEIU Local 1021 – Child Care

CITY OF SAN RAFAEL

~~Joel Evans-Fudem~~~~Michael Vileria~~, SEIU
Representative

~~Jack Hughes, Liebert Cassidy Whitmore~~~~Tim~~
~~Davis, Burke & Assoc.~~

~~John Stead-Mendez~~, Executive Director,
SEIU Local 1021

~~Stacey Peterson~~~~Shibani Nag~~, Human
Resources Director

Patricia Cerutti-Saylors, Child Care Director

Kelly Albrecht, Senior Recreation Supervisor

Jocelyn Hallroan, Child Care Director

~~Sylvia Gonzalez, HR Coordinator~~~~Cristine~~
~~Alilovich, Assistant City Manager~~

Gabriela Farias, Child Care Director

DATE

DATE

SEIU Local 1021 - Child Care Unit
SALARY SCHEDULE
Effective November 1, 2019

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director	\$ 4,040	\$ 4,242	\$ 4,454	\$ 4,676	\$ 4,910
9350	Instructor II	\$ 2,899	\$ 3,044	\$ 3,196	\$ 3,356	\$ 3,524
9351	Instructor I	\$ 2,259	\$ 2,371	\$ 2,490	\$ 2,615	\$ 2,745

**Employees are eligible to advance to Step E after at least 2 years at Step D in the current job class*

HOURLY RATES:

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director (37.5 hrs/week)	\$ 24.8588	\$ 26.1018	\$ 27.4069	\$ 28.7772	\$ 30.2161
9350	Instructor II (35 hrs/week)	\$ 19.1161	\$ 20.0719	\$ 21.0755	\$ 22.1293	\$ 23.2358
9351	Instructor I (35 hrs/week)	\$ 14.8916	\$ 15.6362	\$ 16.4180	\$ 17.2389	\$ 18.1008

SEIU Local 1021 - Child Care Unit
SALARY SCHEDULE
Effective November 1, 2020

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director	\$ 4,120	\$ 4,326	\$ 4,543	\$ 4,770	\$ 5,008
9350	Instructor II	\$ 2,957	\$ 3,105	\$ 3,260	\$ 3,423	\$ 3,595
9351	Instructor I	\$ 2,304	\$ 2,419	\$ 2,540	\$ 2,667	\$ 2,800

**Employees are eligible to advance to Step E after at least 2 years at Step D in the current job class*

HOURLY RATES:

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director (37.5 hrs/week)	\$ 25.3560	\$ 26.6238	\$ 27.9550	\$ 29.3527	\$ 30.8204
9350	Instructor II (35 hrs/week)	\$ 19.4985	\$ 20.4734	\$ 21.4970	\$ 22.5719	\$ 23.7005
9351	Instructor I (35 hrs/week)	\$ 15.1894	\$ 15.9489	\$ 16.7464	\$ 17.5837	\$ 18.4629