

ORDINANCE NO. 1991

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AMENDING SAN RAFAEL MUNICIPAL CODE SECTION 14.25.040 EXEMPTING FROM ENVIRONMENTAL AND DESIGN REVIEW ANY PUBLIC ART PROJECTS THAT UNDERGO REVIEW THROUGH A SEPARATE REVIEW PROCESS ESTABLISHED BY THE CITY FOR THAT PURPOSE

WHEREAS, City staff is working to establish a program to allow public arts projects on public and private properties within the City subject to a specially established City approval process; and

WHEREAS, under existing provisions of Chapter 14.25 of the San Rafael Municipal Code, art projects and/or installations on private properties, which could be considered to be public arts projects under the City's new public arts program, are required to obtain Environmental and Design Review approval prior to installation; and

WHEREAS, the City Council wishes to establish a unified process for approval of public arts projects on both public and private properties within the City; and desires this separate process to be used to review and approve public arts projects on private property rather than the Environmental and Design Review process; and

WHEREAS, the City Council finds that adoption of this ordinance would make minor alterations to the process for administrative review of murals and other art installations in the City, and is therefore categorically exempt from environmental review pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15305 exempting minor alterations in land use limitations; and

WHEREAS, the City Council further finds:

1. The amendments to San Rafael Municipal Code Section 14.25.040 are consistent with the following policies and programs of the San Rafael General Plan 2020 as follows:
 - a. General Plan Policy CA-3-Cultural and Arts Programs and Activities encourages opportunities for both public and private cultural arts programs and activities addressing the needs and interests of the whole community
 - b. General Plan policy CA-6 -Community Art, *Encourage community art projects that create a greater understanding and appreciation of art and artists through community involvement.*
 - c. General Plan Program CA-6b-Mural Review, supports reevaluation of the City's mural review process. The proposed amendment will allow the city to initiate a pilot program that will test a local arts process for review of private and public installation of public arts projects.

2. The proposed amendments are consistent with the following DRAFT GP2040 policies and programs:
 - a. Policy AC-1.2: Arts Programming, which states: *Encourage and support an array of cultural arts programs and activities addressing the needs and interests of the whole community.*
 - b. Policy AC-1.4: Inclusive Activities, which states: *Encourage activities, entertainment and events that reflect San Rafael's diverse cultural heritage and population. Programming should be inclusive of all ages, ethnicities, genders, abilities, and socio- economic groups. Participation in the arts should be supported as a way to promote intercultural understanding, and to bridge differences and forge unity. All residents should have access to arts and cultural activities.*
 - c. Policy AC-1.5: Public Art, which states: *Promote a stimulating and engaging environment through the greater display of public art, including both temporary and permanent works. Locations throughout the city should be considered.*
 - d. Program AC-1.5A: Art in Public Places. Evaluate the feasibility of an Art in Public Places Ordinance (or “percent for art” program) that would establish a funding source and/or mechanism for increasing public art. Strive for solutions that maximize flexibility in the way funds are collected and used.
 - e. Program AC-1.5B: Community-Based Outdoor Art Installations, which states: *Support participatory public art projects that engage the community, such as murals, 3D art, and street painting. Such projects should foster a greater understanding of local cultures, arts, and history and provide an opportunity to express neighborhood identity.*
 - f. Policy AC-1.8: Arts and the Local Economy which states *Recognize the value of the arts to the economy of the city, and the role of the arts in community revitalization.*
 - g. Policy AC-1.9: Arts-Supportive Environment, which states: *Create an environment that is supportive to arts professionals.*

3. The public health, safety and general welfare are served by adoption of the proposed amendments, in that the amendments would provide opportunity for the City to establish a path to implement General Plan policies related to cultural and art programs that are inclusive of the whole San Rafael Community; and would allow opportunity to create a pilot program that could be used to review public arts projects;

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

DIVISION 1: AMENDMENT.

Section 14.25.040 of the San Rafael Municipal Code, entitled “Improvements Subject to Design Review” is hereby amended by amending subsection A (“Major Physical Improvements”) thereof to read in its entirety as follows:

- A. Major Physical Improvements.
1. New construction on vacant property, including, but not limited to:
 - a. Any residential structure located within one hundred (100) vertical feet of a ridgeline,
 - b. Residential structures with three (3) or more dwelling units, and boarding houses,
 - c. Residential structures as required by subdivision or zoning approvals,
 - d. Offices, retail and industrial structures,
 - e. Public, quasi-public, religious, social and similar community structures,
 - f. Marinas and yacht clubs;
 2. Modifications to existing structures, including, but not limited to:
 - a. Additions to multifamily residential structures with three (3) or more units, where the addition constitutes more than forty percent (40%) of the total square footage of the building,
 - b. Additions and alterations to existing nonresidential structures where the addition is greater than forty percent (40%) of the existing square footage. (Note: The community development director may determine that an addition or alteration greater than forty percent (40%) which has a minor impact on the visual character or function of a building is subject to a minor design review permit.),
 - c. Relocation of a nonresidential structure, or of a residential structure with three (3) or more existing dwelling units,
 - d. Second dwelling units, as prescribed by Section 14.16.285.C.9;
 3. Major site design improvements, including but not limited to:
 - a. Subdivisions located on properties with an average slope of twenty-five percent (25%) or greater, or with a general plan land use designation of hillside residential or hillside resource residential,
 - b. Cutting of one thousand (1,000) or more cubic yards per site per year, or fill of two thousand (2,000) or more cubic yards per site per year. (Exempt: Where removal is being done in accordance with an approved and legally effective tentative and/or final subdivision map, and a legally

effective building permit.) (Note: A use permit is also required where the principal use proposed is cutting or filling.),

- c. Landscaping as part of a development subject to major environmental and design review,
 - d. Circulation and parking and loading facilities for pedestrians, bicycles and motor vehicles on a development subject to major environmental and design review,
 - e. Signs for a development subject to environmental and design review. The sign permit application shall be reviewed for location, size and type of signs concurrently with the design review application. See Chapter 14.19, Signs;
4. Development subject to review as a major physical improvement pursuant to any other provision of this title;
 5. Mural signs painted on the exterior surface of a wall of an existing or new structure;
 6. Wireless telecommunications facility, as prescribed under Section 14.16.360.B.

DIVISION 2: AMENDMENT.

Section 14.25.040 of the San Rafael Municipal Code, entitled “Improvements Subject to Design Review” is hereby amended by amending subsection D (“Exempt from Design Review”) thereof to read in its entirety as follows:

- D. Exempt from Design Review.
 1. Single-family dwellings when sited on individual lots with frontage on a public street and not otherwise subject to design review as listed above;
 2. Ordinary maintenance and repairs;
 3. New decks or additions to decks, except where review is required for decks located in hillside areas as prescribed in Section 14.25.040.C, above;
 4. Installation of solar panels on existing structures or grounds, as provided under state law and in compliance with all applicable development standards;
 5. Public art installations on public or private property approved through a City-established public art program. For purposes of this section (14.25.040), “public art” is defined as all forms of art including, but not limited to: sculptures, murals, mosaics, and fountains, which are located on the exterior of a publicly owned facility or on a privately owned property when such artwork is placed in a location intended to be visible to the general public;

6. The community development director may declare improvements which have been determined to be minor or incidental within the intent and objectives of this chapter to be exempt from review.

DIVISION 3: 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 3: PUBLICATION; EFFECTIVE DATE.

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of the Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1991 was introduced at a regular meeting of the City Council of the City of San Rafael on February 16, 2021 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: None

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 1st day of March, 2021.

LINDSAY LARA, City Clerk

SUMMARY ORDINANCE NO. 1991

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AMENDING SAN RAFAEL MUNICIPAL CODE SECTION 14.25.040 EXEMPTING FROM ENVIRONMENTAL AND DESIGN REVIEW ANY PUBLIC ART PROJECTS THAT UNDERGO REVIEW THROUGH A SEPARATE REVIEW PROCESS ESTABLISHED BY THE CITY FOR THAT PURPOSE

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1991, which will amend Sections 14.25.040 of the San Rafael Municipal Code. Ordinance No. 1991 is scheduled for adoption by the San Rafael City Council at its regular meeting of March 1, 2021. 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

The Ordinance will amend the San Rafael Municipal Code Sections 14.25.040 (Environmental and Design Review) defining public arts projects and exempting from Environmental and Design Review any public art projects that undergo review through a separate review process established by the city for that purpose. The City is setting up a pilot public art project to review and approve public art installations on both public and private property. The ordinance is being amended to provide that public art projects will be subject to approval through that separate process rather than through the current Environmental and Design Review process, with the goal of having a unified process for all public art projects.

Copies of Ordinance No. 1991 will be available for public review by request at city.clerk@cityofsanrafael.org, and on the City's website: <https://www.cityofsanrafael.org>.

LINDSAY LARA

San Rafael City Clerk

Dated: 2/19/2021