



## AGENDA

SAN RAFAEL CITY COUNCIL – MONDAY, AUGUST 16, 2021

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2021-08-16>

Watch on YouTube: [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael)

Listen by phone: (669) 900-9128

ID: 899-2635-9885#

### **CORONAVIRUS (COVID-19) ADVISORY NOTICE**

In response to Executive Order N-29-20, the City of San Rafael will no longer offer an in-person meeting location for the public to attend. This meeting will be held virtually using Zoom and is being streamed to YouTube at [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael).

How to participate in the meeting:

- Submit public comment in writing before 4:00 p.m. the day of the meeting to [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org).
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and provide verbal public comment.

Any member of the public who needs accommodations should contact the City Clerk (email [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org) or phone at 415-485-3066) who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

### **OPEN SESSION - (669) 900-9128 ID: 853-8238-1398# - 6:30 P.M.**

1. Mayor Kate to announce Closed Session items.

### **CLOSED SESSION**

2. Closed Session:

- a. Conference with Legal Counsel—Existing Litigation  
Government Code section 54956.9(d)(1)  
Name of case: Karl Bracy v. Officer Joseph Jordan et al., U.S. District Court Northern District of California Case No. 4:20-cv-07585 DMR

### **OPEN TIME FOR PUBLIC EXPRESSION**

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:

### **COUNCILMEMBER REPORTS:**

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

4. Councilmember Reports:

## **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.

### 5. Consent Calendar Items:

#### a. **Approval of Minutes**

Approve Minutes of City Council / Successor Agency Regular Meeting of Monday, August 2, 2021 (CC)

*Recommended Action – Approve minutes as submitted*

#### b. **Sale of 30 Joseph Court Property to County of Marin**

Resolution Authorizing the Mayor to Sign the Grant Deed and Escrow Documents for Sale of Real Property Located at 30 Joseph Court to the County of Marin (CA/PW)

*Recommended Action – Adopt Resolution*

#### c. **San Rafael General Plan 2040 Ordinance Adoption**

Final Adoption of Ordinance No. 1996: An Ordinance Amending the San Rafael Municipal Code Amending Title 14 (Zoning Ordinance) and Amending the Zoning Map of the San Rafael Municipal Code to: A) Repeal the Existing Downtown Zoning Districts, and Replace with Downtown Mixed-Use (DMU) District; B) Amend, Delete and Replace Certain Zoning Provisions Applicable to Downtown San Rafael; and C) Amend, Delete and Replace Other Zoning Regulations to Comply with State Law and Incorporate Other Minor Changes, Corrections and Updates (CD)

*Recommended Action – Final Adoption of Ordinance 1996*

#### d. **San Rafael Downtown Precise Plan Ordinance Adoption**

Final Adoption of Ordinance No. 1997: An Ordinance Adopting the Downtown San Rafael Precise Plan – Chapter 9 Downtown Form-Based Code to Serve as the Primary Regulatory City Zoning Code for Downtown San Rafael (CD)

*Recommended Action – Final Adoption of Ordinance 1997*

#### e. **Albert J. Boro Community Center Community Use Policy**

Resolution Approving the Updated Albert J. Boro Community Center Community Use Policy (LR)

*Recommended Action – Adopt Resolution*

#### f. **Parks, Events, and Activities Municipal Code Amendments Ordinance Adoption**

Final Adoption of Ordinance No. 1998: An Ordinance Amending the San Rafael Municipal Code to Change the Name of Title 19 from “Open Space” to “Public Parks, Property, and Open Space”; to Repeal Chapter 8.10 (Parks and Recreation) and Add a New Chapter 19.20 (Parks and Recreation) to Title 19; to Repeal Chapter 5.70 (Meetings Assemblies and Parades In Public Places) of Title 5 and Add a New Chapter 19.30 (Assemblies and Parades In Public Streets and Rights-Of-Way) to Title 19; to Add New Chapter 19.40 (Expressive Activities In Public Places) to Title 19; to Add New Section 5.60.054 to Chapter 5.60 (Parking Regulations); and Finding the Ordinance Exempt from the California Environmental Quality Act (CA/LR)

*Recommended Action – Final Adoption of Ordinance 1998*

- g. **Renewal of Abandoned Vehicle Enforcement Program**  
Resolution Approving the Request to Extend the Marin County Abandoned Vehicle Abatement Program Service Authority Service Fee Through April 30, 2032 (PS)  
*Recommended Action – Adopt Resolution*

**OTHER AGENDA ITEMS**

6. Other Agenda Items:

- a. **San Rafael Social Justice Community Art Group Proposal for a Public Art Installation**  
Resolution Approving the Design and Installation of a Public Art Mural at Arbor Park (CM)  
*Recommended Action – Adopt Resolution*

**SPECIAL PRESENTATIONS**

7. Special Presentations:

- a. Presentation by PG&E on Wildfire Planning (PW)
- b. Presentation of Proclamation in Recognition of National Preparedness Month 2021 (FD)

**PUBLIC HEARINGS**

8. Public Hearings:

- a. **Authorization for Background Checks**  
City Council Authorization for Background Checks for City Employment and City Licenses (PD)
  - i. Consideration of an Ordinance of the City of San Rafael City Council Adding Chapter 2.22 to the San Rafael Municipal Code, Entitled “Background Checks”  
*Recommended Action – Pass Ordinance to print*
  - ii. Resolution Authorizing the City to Access State and Federal Summary Criminal History for New Employee and Licensee Background Information Through the Department of Justice  
*Recommended Action – Adopt Resolution*

**OTHER AGENDA ITEMS (continued)**

9. Other Agenda Items:

- a. **San Rafael 2023-2031 Housing Element**  
Informational Report on the 2023-2031 Housing Element and Community Engagement Program (CD)  
*Recommended Action – Accept report and provide feedback to staff*

**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 online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing [Lindsay.lara@cityofsanrafael.org](mailto: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.*



## MINUTES

**SAN RAFAEL CITY COUNCIL – MONDAY, AUGUST 2, 2021**

### **CORONAVIRUS (COVID-19) ADVISORY NOTICE**

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Present: Mayor Kate  
Vice Mayor Bushey  
Councilmember Hill  
Councilmember Kertz  
Councilmember Llorens Gulati

Absent: None

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

**CLOSED SESSION AT 6:30 P.M.**

**Watch on Webinar: <https://tinyurl.com/CS-2021-08-02>**

**Listen by phone: (669) 900-9128**

**ID: 874-3622-7711#**

### **OPEN SESSION**

1. Mayor Kate to announce Closed Session items.

### **CLOSED SESSION**

2. Closed Session:
  - a. Conference with Legal Counsel—Existing Litigation  
Government Code Section 54956.9(d)(1)  
Claim of J. Kelly Howard



**REGULAR MEETING AT 7:00 P.M.**  
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**ID: 817-3692-0337#**

Mayor Kate called the meeting to order at 7:03 p.m. and invited City Clerk Lindsay Lara to call the roll. All members of the City Council were present.

City Attorney Robert Epstein announced that no reportable action was taken in the Closed Session held prior to the meeting.

Mayor Kate provided opening remarks, which included a recent downtown shooting and a land acknowledgment.

City Clerk Lindsay Lara announced the process for Spanish interpretation tonight. She informed the community that the meeting would be streamed live to YouTube and through Zoom and members of the public would provide public comment either on the telephone or through Zoom. She explained the process for community participation on the telephone or through Zoom.

**OPEN TIME FOR PUBLIC EXPRESSION**

Correspondence in real-time through Zoom or on telephone

- Eva Chrysanthe, addressed the City Council regarding restroom use at a Community Center.

**CITY MANAGER'S REPORT:**

3. City Manager's Report:

City Manager Jim Schutz announced:

- National Night Out starting Tuesday, August 3 at 6 p.m.
- COVID-19 Update
- Service Support Area Update

**COUNCILMEMBER REPORTS:**

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

4. Councilmember Reports:

- Councilmember Bushey reported on working with the Loch Lomond Oversight Development Committee.
- Councilmember Hill reported on a filming of a flume (water sensor) install.
- Councilmember Kertz reported on her flume install, Mulch Madness, housing vouchers and a Public Art Advisory Committee meeting.
- Councilmember Llorens Gulati reported on a 101/580 Direct Connector field trip and a clean-up day in the Canal with Alcohol Justice.
- Mayor Kate reported on SMART, TAM and Marin Transit meetings and a tour at 3301 Kerner Blvd (Project Homekey site).

## **CONSENT CALENDAR:**

Mayor Kate invited public comment.

**Speaker:** Eva Chrysanthe

Councilmember Kertz moved and Councilmember Bushey seconded to approve the Consent Calendar.

### 5. Consent Calendar Items:

#### a. **Approval of Minutes**

**Approve Minutes of City Council / Successor Agency Regular Meeting of Monday, July 19, 2021 and Special Meeting of Thursday, July 15, 2021 (CC)**

*Approved minutes as submitted*

#### b. **Temporary Street Closure to Support Vaccination Efforts in the Canal Neighborhood Resolution Authorizing Saturday Street Closures to Support Canal Alliance's Effort to Provide COVID-19 Vaccinations (PW)**

*Resolution 14957 - Resolution Authorizing Saturday Street Closures to Support Canal Alliance's Effort to Provide COVID-19 Vaccinations*

#### c. **Designation of Voting Delegate for the League of California Cities Annual Conference & Expo**

**Designation of Councilmember Eli Hill as Voting Delegate for the 2021 League of California Cities Annual Conference & Expo in Sacramento – September 22-24, 2021 (CC)**

*Approved the designation of Councilmember Eli Hill as voting delegate*

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

## **PUBLIC HEARINGS**

### 6. Public Hearings:

#### a. **[San Rafael General Plan 2040, Downtown Precise Plan and Zoning Ordinances](#)**

Alicia Giudice, Community Development Director introduced Barry Miller, General Plan 2040 Consultant who presented the Staff Report.

**Recess during Staff Report Presentation:** 7:50 to 7:55 p.m.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

**Speakers:** Jeff Rhoads, San Rafael Heritage, Linzy Klumpp, San Rafael Heritage, John Reynolds

**Recess:** 8:11 to 8:16 p.m.

**Speakers:** Bill Carney, Sustainable San Rafael, Eva Chrysanthe

Staff responded to public comment.

Staff responded to comments and questions from Councilmembers.

**i. Resolution Adopting Findings of Fact and a Statement of Overriding Consideration for General Plan 2040 and the Downtown Precise Plan (CD)**

Councilmember Bushey moved and Councilmember Hill seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Resolution 14958 - Resolution Adopting Findings of Fact and a Statement of Overriding Consideration for General Plan 2040 and the Downtown Precise Plan*

**ii. Resolution Adopting San Rafael General Plan 2040 (CD)**

Councilmember Bushey moved and Councilmember Kertz seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Resolution 14959 - Resolution Adopting San Rafael General Plan 2040*

**iii. Resolution Adopting Downtown Precise Plan (CD)**

Councilmember Bushey moved and Councilmember Kertz seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Resolution 14960 - Resolution Adopting Downtown Precise Plan*

- iv. **Consideration of An Ordinance Amending the San Rafael Municipal Code Amending Title 14 (Zoning Ordinance) and Amending the Zoning Map of the San Rafael Municipal Code to: A) Repeal the Existing Downtown Zoning Districts, and Replace with Downtown Mixed-Use (DMU) District; B) Amend, Delete and Replace Certain Zoning Provisions Applicable to Downtown San Rafael; and C) Amend, Delete and Replace Other Zoning Regulations to Comply with State Law and Incorporate Other Minor Changes, Corrections and Updates (CD)**

Councilmember Bushey moved and Councilmember Hill seconded to pass Ordinance to print.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Passed Ordinance No. 1996 to print*

- v. **Consideration of An Ordinance Adopting the Downtown San Rafael Precise Plan – Chapter 9 Downtown Form-Based Code to Serve as the Primary Regulatory City Zoning Code for Downtown San Rafael (CD)**

Councilmember Bushey moved and Councilmember Kertz seconded to pass Ordinance to print.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Passed Ordinance No. 1997 to print*

- b. [Amendments to the San Rafael Municipal Code Regarding Parks and Recreation, Parades, Assemblies, Expressive Activity and Other Activity on Public Property](#)

**Consideration of An Ordinance Amending the San Rafael Municipal Code to Change the Name of Title 19 from “Open Space” to “Public Parks, Property, and Open Space”; to Repeal Chapter 8.10 (Parks and Recreation) and Add a New Chapter 19.20 (Parks and Recreation) to Title 19; to Repeal Chapter 5.70 (Meetings Assemblies and Parades In Public Places) of Title 5 and Add a New Chapter 19.30 (Assemblies and Parades In Public Streets and Rights-Of-Way) to Title 19; to Add New Chapter 19.40 (Expressive Activities In Public Places) to Title 19; to Add New Section 5.60.054 to Chapter 5.60 (Parking Regulations); and Finding the Ordinance Exempt from the California Environmental Quality Act (CA/LR)**

Lisa Goldfien, Assistant City Attorney introduced Nira Doherty, Deputy City Attorney and Susan Andrade-Wax, Library & Recreation Director who presented the Staff Report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

**Speaker:** Eva Chrysanthe

Councilmembers provided comments.

Councilmember Hill moved and Councilmember Llorens Gulati seconded to pass Ordinance to print.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Passed Ordinance No. 1998 to print*

c. **[Spinnaker Point Drive Parking Modification Project](#)  
**Resolution Adopting the Mitigated Negative Declaration and Associated Mitigation Monitoring and Reporting Program for the Spinnaker Point Drive Parking Modification Project, City Project No. 11363 (PW)****

Bill Guerin, Public Works Director and Geoff Reilly, Consultant from WRA presented the Staff Report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

**Speakers:** John Reynolds, Kate Powers, Eva Chrysanthe

Staff responded to public comment.

Councilmembers provided comments.

Councilmember Llorens Gulati moved and Councilmember Bushey seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Resolution 14961 - Resolution Adopting the Mitigated Negative Declaration and Associated Mitigation Monitoring and Reporting Program for the Spinnaker Point Drive Parking Modification Project, City Project No. 11363*

Councilmember Bushey moved and Councilmember Llorens Gulati seconded to direct staff to proceed with the final design and submittal of regulatory environmental permits.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Directed staff to proceed with the final design and submittal of regulatory environmental permits*

**SAN RAFAEL SUCCESSOR AGENCY:**

1. Consent Calendar: - None.

**ADJOURNMENT:**

Mayor Kate adjourned the meeting at 10:02 p.m.

\_\_\_\_\_  
LINDSAY LARA, City Clerk

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021

\_\_\_\_\_  
KATE COLIN, Mayor

DRAFT



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

**Department: City Attorney/Public Works**

**Prepared by: Lisa Goldfein, Asst. City Attorney**

**City Manager Approval:**  \_\_\_\_\_

**TOPIC: SALE OF 30 JOSEPH COURT PROPERTY TO COUNTY OF MARIN**

**SUBJECT: RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE GRANT DEED AND ESCROW DOCUMENTS FOR SALE OF REAL PROPERTY LOCATED AT 30 JOSEPH COURT TO THE COUNTY OF MARIN**

**RECOMMENDED ACTION:**

Adopt a resolution authorizing the Mayor to sign the grant deed to the County or Marin for real property located at 30 Joseph Court formerly used as Fire Station 53.

**BACKGROUND:**

The County of Marin and the City of San Rafael have had an ongoing agreement since 1976 to provide fire protection services to a number of unincorporated areas within CSA 19, which are contiguous to the City of San Rafael (Santa Venetia, Los Ranchitos, Country Club, Bayside Acres and California Park).

As part of the 1976 agreement the County leased the land at 3535 Civic Center Drive for a 30-year term, at an annual cost to the City of \$1. The City constructed Fire Station 57, with the County contributing \$85,000 to the construction, which was one half of the cost.

Over the past 40+ years the San Rafael Fire Department extended fire protection coverage to other unincorporated County areas within San Rafael, including Sun Valley, San Quentin Village, China Camp State Recreational Area, the Richmond/San Rafael Bridge, and San Pedro Peninsula/McNear.

At the expiration of the 1976 agreement in 2006, the City and the County continued their relationship by entering into a new "Lease Agreement" and "Fire Protection Services Agreement," each with a term of 10 years scheduled to expire June 30, 2016. In anticipation of the June 30, 2016 expiration date, the City and the County met to discuss alternative service and cost allocation models to best meet current and future fire service requirements. Through a coordinated effort, the City and the County negotiated two new agreements, one for Fire Protection Services and another for leasing of County land at 3535 Civic Center Drive by the City to continue operating Fire Station 57 at that location. The Fire Protection Services agreement and the 40-year Lease Agreement were approved by the City Council on June 20, 2016, and new Fire Station 57 was constructed on that property and was occupied in 2019.

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

## **SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2**

As partial consideration for this transaction, one of the terms of the Lease Agreement granted to the County of Marin an option to purchase City-owned property at 30 Joseph Court in northern San Rafael for \$1 million upon completion of new Fire Station 57.

### **ANALYSIS:**

The property at 30 Joseph Court is 0.44 acres improved with a one-story building, which was originally used by the City as its Fire Station 53. However, by 2016, the property was being used only to house the San Rafael Fire Department's Medic Unit 53. In planning to rebuild Station 57, the Fire Department planned to move Medic Unit 53 to the new station and determined that it would no longer need 30 Joseph Court for Fire Department purposes after the new Fire Station 57 was completed and occupied.

The County expressed an interest in possibly acquiring 30 Joseph Court in the future, therefore as a term of the Lease Agreement, the City Council agreed to grant the County an option to purchase the property for \$1 million within one year following completion of Fire Station 57. After one mutually agreed extension of the option period, the County exercised the option, at the agreed purchase price of \$1 million, thereby effectively accepting the City's offer to sell 30 Joseph Court to the County.

To execute the sale, City and County staff worked together to develop a purchase agreement, which was approved by the Marin County Board of Supervisors and signed by the President of the Board of Supervisors and by the City Manager on July 20, 2021.

An escrow for the sale has been opened at First American Title Company and is scheduled to close on August 31, 2021. In connection with the escrow, the title company has requested that the City provide a resolution naming the person authorized to sign the Grant Deed and related closing documents on behalf of the City. Staff has prepared the attached resolution authorizing the Mayor to execute these documents.

### **FISCAL IMPACT:**

Under the terms of the option and the purchase agreement, at close of escrow the City will receive \$1 million.

### **RECOMMENDED ACTION:**

Adopt a resolution authorizing the Mayor to execute a Grant Deed and other required escrow documents, in a form approved by the City Attorney, to complete the sale of the property at 30 Joseph Court to the County of Marin.

### **ATTACHMENTS:**

1. Resolution
2. Approved City Council Resolution No. 14142 with attached Fire Protection Services Agreement and Lease Agreement
3. Executed Purchase Agreement for 30 Joseph Court



## RESOLUTION NO.

### RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL AUTHORIZING THE MAYOR TO SIGN THE GRANT DEED AND ESCROW DOCUMENTS FOR SALE OF REAL PROPERTY LOCATED AT 30 JOSEPH COURT TO THE COUNTY OF MARIN

**WHEREAS**, on June 21, 2016, pursuant to City Council Resolution No. 14141, the City of San Rafael and the County of Marin entered into an Agreement for the City to provide fire protection services to County Service Area 19 (the “Fire Protection Services Agreement”), effectively extending an existing longstanding partnership between the two jurisdictions for the provision of fire protection services; and

**WHEREAS**, on June 21, 2016, pursuant to City Council Resolution No. 14142 and in conjunction with the approval of the Fire Protection Services Agreement, the City entered into a Lease Agreement with the County of Marin providing for the City to lease for 40 years the County-owned property at 3535 Civic Center Drive, and for the City and the County to share in the costs of constructing a new San Rafael Fire Station 57 on that property (the “Lease Agreement”); and

**WHEREAS**, the City owns a parcel of real property located in Marin County designated as Assessor’s Parcel No. 155-081-08 and commonly known as 30 Joseph Court, San Rafael (hereafter “30 Joseph Court”) which was used in the past as City Fire Station 53, and which was used, upon the start of construction of new Fire Station 57, as a temporary fire station until completion of construction of new Fire Station; and

**WHEREAS**, as a term of, and as partial consideration for, the Lease Agreement, the City granted the County of Marin an option to purchase 30 Joseph Court following the completion of construction of new Fire Station 57, for a purchase price of \$1 million; and

**WHEREAS**, the County of Marin timely exercised the option to purchase 30 Joseph Court for \$1 million; and

**WHEREAS**, pursuant to the exercise of the option, the City and the County of Marin entered into a purchase and sale agreement for 30 Joseph Court on July 20, 2021, and close of escrow on the sale has been tentatively set for August 31, 2021; and

**WHEREAS**, to complete the sale of 30 Joseph Court to the County of Marin, a Grant Deed to that property, and other related escrow documents, must be executed on behalf of the City of San Rafael; and

**WHEREAS**, Article VIII, section 1 of the Charter of the City of San Rafael authorizes the Mayor to sign all conveyances by the City;

**NOW, THEREFORE BE IT RESOLVED**, that the City Council hereby authorizes the Mayor to execute a Grant Deed and related escrow documents, in a form approved by the City Attorney, to sell the property at 30 Joseph Court to the County of Marin.

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 16<sup>th</sup> day of August 2021, by the following vote, to wit:

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

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**Lindsay Lara, City Clerk**

**RESOLUTION NO. 14142**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE COUNTY OF MARIN PROVIDING FOR A 40-YEAR LEASE OF COUNTY PROPERTY AT 3535 CIVIC CENTER DRIVE AND FUNDING OF CAPITAL IMPROVEMENTS OF FIRE STATION 57**

**WHEREAS**, on February 17, 1976, the City of San Rafael (City) and the County of Marin (County) entered into an "Agreement for Fire Protection Services in and Around County Service Area 19" under which the County leased approximately 35,284 square feet of land at 3535 Civic Center Drive on a 30-year lease term to the City, on which the City constructed Fire Station 57 in conjunction with the County, and from which the City has provided fire protection services to County Service Area 19 (CSA 19); and

**WHEREAS**, in 2006, the City and the County agreed to amend the 1976 Agreement and to extend it for 10 more years; and

**WHEREAS**, the current 2006 Agreement expires on June 30, 2016; and

**WHEREAS**, the City and the County desire to continue City's lease of the County property at 3535 Civic Center Drive and the provision of fire protection services by the City to CSA 19; and

**WHEREAS**, in November 2013, the San Rafael voters passed Measure E, a three-quarter cent transactions and use tax with a term of twenty years. This tax supplanted the former, one-half cent transactions and use tax (Measure S), effective April 1, 2014; and

**WHEREAS**, in June 2014, the City Council allocated the additional funds from Measure E (i.e., the amounts collected in excess of the prior transactions and use tax), approximately \$3.7 million/year, to be used for public safety facilities improvements and construction; and

**WHEREAS**, on July 20, 2015, the City Council unanimously approved the Essential Facilities Strategic Plan. Phase One includes a new Public Safety Center (combined police and fire station) and replacement of Fire Stations 52 and 57; and

**WHEREAS**, as part of the Essential Facilities Strategic Plan, the City intends to construct a new Fire Station 57 on the existing County lease site that is approximately 10,000 square feet with three drive-through bays, including an approximately 1,000 square foot ambulance bay; and

**WHEREAS**, the City and the County agree that they should share the costs of capital improvements required for the new Fire Station 57; and

**WHEREAS**, the City shall bear 54% of all Fire Station 57 project costs, including, but not limited to, architectural services, site preparation, construction, access, landscaping, outfitting, equipping said station, and any potential wetland mitigation costs, and in addition will bear all project costs in excess of \$12 million, if any; and

**WHEREAS**, the City plans to construct an ambulance bay at the new Fire Station 57 to accommodate moving the ambulance from nearby Station 53 (30 Joseph Court) to Station 57, but the County will not contribute to the cost of the ambulance bay because CSA 19 funds are limited to funding activities and infrastructure that relates exclusively to "structural fire protection," thus, the County of Marin agrees to bear 46% of the Fire Station 57 project costs, not to exceed \$5,520,000.

**WHEREAS**, the City will give the County a one-year option to purchase 30 Joseph Court for \$1 million commencing upon City's occupancy of the newly constructed Fire Station 57; and

**WHEREAS**, the lease agreement is for a period up to 40 years contingent upon the County's contribution to Fire Station 57 capital improvements.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council does hereby authorize the Mayor to execute an agreement with the County of Marin, , subject to final approval as to form by the City Attorney, providing for the continued lease of the property at 3535 Civic Center Drive to City and the sharing of the costs of Fire Station 57 capital improvements as stated in this Resolution

I, ESTHER C. BEIRNE, 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 said City held on the 20<sup>th</sup> day of June, 2016, by the following vote, to wit:

AYES: COUNCILMEMBERS: Gamblin, McCullough & Vice-Mayor Colin  
NOES: COUNCILMEMBERS: None  
ABSENT: COUNCILMEMBERS: Bushey and Mayor Phillips

*Esther C. Beirne.*  
ESTHER C. BEIRNE, City Clerk

## LEASE AGREEMENT

This Agreement is made and entered into as of the 2/15 day of June, 2016, by and among the COUNTY OF MARIN, a political subdivision of the State of California (hereinafter "County"), COUNTY SERVICE AREA 19 OF THE COUNTY OF MARIN, a political subdivision of the State of California (hereinafter "CSA"), and the CITY OF SAN RAFAEL, a charter city (hereinafter "City").

### RECITALS:

A. The City, County and CSA are entering into a Fire Protection Services Agreement for County Service Area 19 and adjoining areas, which is contingent upon the parties entering into this Lease Agreement for the lease of the lands described hereafter in Paragraph 4.

B. The City owns the Fire Station #57 Improvements located on property owned by the County. The County's property that is the subject matter of this Lease Agreement is fully described in Paragraph 4 below (the "Property").

C. The current Lease Agreement for the Property between the City and County, dated June 20, 2006, terminates on June 30, 2016.

D. The County desires to continue to lease the Property to the City, and City desires to continue to lease the Property from the County.

E. The City intends to construct a new Fire Station #57 on the existing site as presented and described in Exhibit A – Fire Station #57 Design, a two company prototype of approximately 10,000 square feet with three drive-through bays, including an approximately 1,000 square foot ambulance bay (the "Improvements").

**NOW THEREFORE**, the parties agree as follows:

1. Construction of New Fire Station #57.

A. The City shall afford the County Board of Supervisors an opportunity, prior to City's final approval of the design, to review and approve design plans, color(s) and material board(s), and specifications relating to the construction of new Fire Station #57 Improvements on the existing site as described in Exhibit A. All exterior Improvements on the Property shall conform, to the extent applicable, with the County Civic Center Master Plan Guidelines, adopted by the Board of Supervisors on December 20, 2005, on file with the County Clerk, and shown on the County's website at <http://www.marincounty.org/depts/ad/divisions/facility-planning-and-development>.

B. Total project costs are estimated at \$12.0 million, consistent with \$11.7 million per City of San Rafael "Essential Facilities Strategic Plan: Detailed Facility Study - Replacement of Fire Station 52 & Training Tower and Fire Station 57, Volume III, page III-47" prepared by Mary McGrath Architects, 2015, plus an estimated \$300,000 for potential wetlands mitigation, totaling \$12.0 million.

C. City shall bear 54.0% of all project costs, including, but not limited to, architectural services, site preparation, construction, access, landscaping, outfitting, equipping said station, and any potential wetland mitigation costs. City shall bear all project costs in excess of \$12.0 million, if any.

D. In consideration of City's interest in consolidating Medic Unit #53 at 30 Joseph Court into the proposed new Fire Station #57, and also in consideration of CSA's limitation of its property tax revenues for "structural fire protection" services per voter intent in 1974, CSA agrees to bear 46.0% of said project costs, not to exceed \$5,520,000.

Said 46% share is derived from the proportion of the planned 1,000 square foot ambulance bay relative to the overall approximately 10,000 square foot new Fire Station #57 design footprint, for a 10% (or \$1.20 million) direct Emergency Medical Services "discount" from the \$12.0 million total estimated cost per Paragraph 1(B) above to accommodate consolidation of City's Medic Unit #53 into the new Fire Station #57, resulting in an initial \$5.40 million CSA share split equally with City. Said \$5.40 million initial CSA share is increased by an additional \$100,000 CSA contribution consistent with Section 7, "Purchase from City of Improvements Upon Termination", of Lease Agreement expiring June 30, 2016, for a rounded 46.0% CSA share of \$12.0 million total cost, not to exceed \$5,520,000.

E. City further agrees that Section 7, "Purchase from City of Improvements Upon Termination", of the Lease Agreement expiring June 30, 2016, is satisfied in full in consideration of CSA's 46.0% contribution toward construction of the new Fire Station #57 Improvements, and that no separate payment to City is required or to be paid upon expiration of the Lease Agreement expiring on June 30, 2016 for existing improvements.

F. County agrees to cooperate with City to mitigate any wetland issues at Fire Station #57 site on County land, if viable, but City is ultimately responsible for development and any wetland mitigation costs.

G. During the period of construction of Fire Station #57 Improvements, City agrees to fund any improvements, if necessary, to ensure interim operations at 30 Joseph Court in consultation with County given potential subsequent County use of the 30 Joseph Court site.

H. CSA agrees to the payment of its share of costs as set forth in Paragraph 1(D) above, for the construction of new Fire Station #57 Improvements, to be made to the City based on a pro-rating of progress payments by the City for costs of said design and construction, estimated to be no more than quarterly until construction is complete.

2. Option to Purchase 30 Joseph Court.

City agrees to give County the option to purchase 30 Joseph Court for \$1.0 million commencing upon City's occupancy of the newly constructed Fire Station #57, with said option to purchase for \$1.0 million terminating one year thereafter. County has expressed interest in purchasing the site and will commence a due diligence process upon City's occupancy of the new Fire Station #57. County shall exercise the option to purchase by written notice of exercise served on City as provided in Paragraph 15 below. In the event that County does not exercise such option within the one year option period, City may thereafter sell 30 Joseph Court to any other third party or to the County on such terms and at such price as the City may determine, in its sole discretion.

3. Title to Fire Station #57 Improvements.

City and County agree that the City shall continue to hold title to the Fire Station #57 Improvements on the Property until such time as this Agreement shall terminate, June 30, 2056, at which time the County or CSA shall receive title to such improvements as provided in Paragraph 9 hereafter.

4. Lease of Lands.

For and in consideration of the covenants and promises hereunder, County does hereby lease to City, and City does hereby lease from County, the lands consisting of approximately 31,422 square feet, or 0.72 acres, described as the "Proposed Lease" on Exhibit "B" attached hereto (the "Property"), pursuant to the terms set forth herein.

5. Term.

Contingent upon the parties having entered into the Fire Protection Services Agreement, bearing the same date as this Lease Agreement, the term of this Lease Agreement shall commence on July 1, 2016 and shall continue through June 30, 2056, unless either party terminates the Fire Protection Services Agreement per Paragraph 6 of that Agreement, attached hereto and incorporated herein by reference.

Should either party terminate the Fire Protection Services Agreement before June 30, 2056, the other party shall have the option to purchase the remaining amortized value of the other's percentage share of the Improvements, per Paragraph 1(C) or 1(D) above, as applicable, to ensure continuity of fire protection services to the community, assuming a 40-year amortization of the other's percentage share of the up-to \$12.0 million gross project costs at a 3.0% discount rate per year.

In the event the City terminates the Fire Protection Services Agreement, County or CSA shall have the option to purchase the remaining amortized value of the City's percentage share of the Improvements, with one hundred twenty (120) days' notice to the City at any time during the remaining lease term through June 30, 2056, in which case the remaining leasehold title vested with the City per this Lease Agreement shall be terminated and full title to the Improvements shall vest with the County or CSA.

In the event the County or CSA terminates the Fire Protection Services Agreement, City shall have the option to purchase the remaining amortized value of the CSA's percentage share of the Improvements, with one hundred twenty (120) days' notice to the County and CSA at any time during the remaining lease term through June 30, 2056, provided that after June 30, 2056 County or CSA shall receive full title to the Improvements from the City as provided in Paragraph 9 hereafter. Should City exercise said option before June 30, 2056, City shall have the rights to continued use of the Improvements as a fire station during the remainder of the leasehold period, contingent upon City maintaining its rent obligations as provided in Paragraph 6 hereafter, as well as all other provisions of this Lease Agreement for the remainder of the leasehold period.

6. Rent.

On or before the first day of each calendar month during the term of this Agreement, without any prior demand by County, City shall pay to County a monthly rental of \$11,854.75, which amount shall be increased by 3.0% annually, commencing with July 1, 2017.



7. Operation and Maintenance Expenses.

The City, as owner of the Fire Station #57 Improvements on the Property, shall be responsible for all operating and maintenance expenses related to the Improvements, including all utilities. The City shall also be responsible for landscape maintenance on the Property.

8. Future Changes to the Improvements.

After the initial construction of the Improvements as described in Paragraph 1 above, the City may make non-structural alterations, renovations, replacements, or other changes to the interior spaces of Fire Station #57 Improvements that do not affect the total square footage, dimension or height of such building, or the external appearance of the building, without requiring the written consent of the County. The City may also replace the roof on the Fire Station #57 building, make landscape improvements, and make repairs to the existing paved parking lot on the Property, without the written consent of the County. Any other exterior changes to the Improvements on the Property (including structural alterations, renovations, replacements, or other changes to the Fire Station #57 Improvements that affect the total square footage, dimension or height of such Improvements, or the external appearance of the Improvements) shall require the County's written consent, and shall conform, to the extent applicable, with the County Civic Center Master Plan Guidelines, adopted by the Board of Supervisors on December 20, 2005, on file with the County Clerk, and shown on the County's website at <http://www.marincounty.org/depts/ad/divisions/facility-planning-and-development>. City shall provide the County with at least ninety (90) days' advance written notice of any changes to the Property that will cost more than \$100,000 and have a useful life greater than five (5) years ("Special Improvements"). Any changes to the exterior of the Improvements, or any Special Improvements, may require approval by the Frank Lloyd Wright Civic Center Conservancy and/or the Board of Supervisors prior to City's implementation of such changes.

9. Vesting of Improvements Upon End of Term.

Upon completion of this Lease Agreement per Paragraph 5, County or CSA is hereby afforded full title to the Improvements.

10. Interests in Fire Station #57 Improvements Not Transferable

In no event may City sell, transfer or otherwise assign its interest in the Improvements to another party without the prior written consent and agreement of the County and CSA.

11. Destruction or Damage to Improvements.

Notwithstanding Paragraph 5 of this Agreement, if, during the term of this Agreement, the Fire Station #57 Improvements are totally destroyed or damaged to the extent that the Improvements are no longer suitable or adequate for use as a fire station, all rent due under the Agreement shall be totally abated effective as of the date of destruction or damage, and City may elect to either reconstruct or repair the Improvements or to terminate this Agreement by giving written notice to the County within three (3) months following such destruction or damage. If the City elects to reconstruct or repair the Improvements, City shall commence such reconstruction or repair within one (1) year after giving notice of such election, and upon the completion of such reconstruction or repair the full monthly rent



payable under the Agreement shall again become payable for the remaining term of the Agreement. If the City elects to terminate the Agreement due to the destruction or damage of the Fire Station #57 Improvements, City shall clear the Property of the destroyed or damaged Improvements and title to the Property shall be vested free and clear to the County.

12. Indemnification.

City shall defend, protect, indemnify and hold harmless the County against and from any and all claims, suits, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorneys' fees, costs and disbursements) (collectively "Claims") arising out of the City's negligence or willful misconduct, or the City's operations on the Property under this Agreement, including any Claims under any Federal or State regulations related to accessibility. County shall defend, protect, indemnify and hold harmless the City against and from any and all claims, suits, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorneys' fees, costs and disbursements) (collectively "Claims") arising out of the County's negligence or willful misconduct related to this Agreement.

13. Hazardous Materials.

City shall be responsible for the disposal in accordance with applicable laws of any hazardous materials placed on the Property by City or City's agents, and shall defend, protect, indemnify and hold harmless the County against and from any claims, suits, liabilities, judgments, costs, demands, causes of action and expenses (including without limitation reasonable attorneys' fees, costs and disbursements) arising from such hazardous materials. County shall be responsible for the disposal in accordance with applicable laws of any other hazardous materials found on the Property, and shall defend, protect, indemnify and hold harmless the City against and from any and all claims, suits, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorneys' fees, costs and disbursements) arising from such other hazardous materials.

14. Amendments.

This Agreement may only be amended by written consent of all parties.

15. Notices.

All notices or communications hereunder shall be in writing and shall be sent by first class mail, addressed to the other party at the addresses indicated below, or such other addresses as the parties may from time to time designate in writing. Notice shall be deemed given upon placement of the notice into the mail.

To County: County Administrator  
County of Marin, Room 325  
3501 Civic Center Drive  
San Rafael, CA 94903

To CSA: County Administrator  
County of Marin, Room 325  
3501 Civic Center Drive

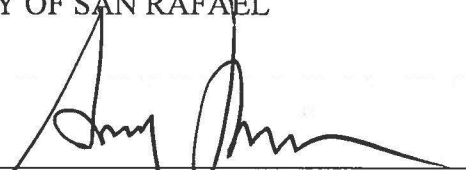
San Rafael, CA 94903

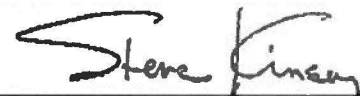
To City: City Manager  
City of San Rafael  
P.O. Box 151560  
San Rafael, CA 94915-1560

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

CITY OF SAN RAFAEL

COUNTY OF MARIN and COUNTY SERVICE  
AREA 19

  
\_\_\_\_\_  
GARY PHILLIPS, Mayor

  
\_\_\_\_\_  
President of the Board of Supervisors

ATTEST:

ATTEST:

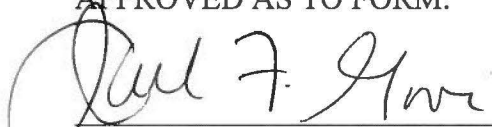
  
\_\_\_\_\_  
ESTHER BIERNE, City Clerk

  
\_\_\_\_\_  
Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ROBERT EPSTEIN, City Attorney

  
\_\_\_\_\_  
STEVEN WOODSIDE, County Counsel  
JACK F. Gavi, Assistant



## ROUTING SLIP / APPROVAL FORM

**INSTRUCTIONS:** Use this cover sheet with each submittal of a staff report before approval by the City Council. Save staff report (including this cover sheet) along with all related attachments in the Team Drive (T:) → CITY COUNCIL AGENDA ITEMS → AGENDA ITEM APPROVAL PROCESS → [DEPT-AGENDA TOPIC]

Agenda Item #

Date of Meeting: 5/16/2016

From: Danielle Ferrigno

Department: City Manager

Date: 6/10/2016

Topic: COUNTY SERVICE AREA 19 FIRE PROTECTION AND LEASE AGREEMENT

Subject: .1. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE COUNTY OF MARIN TO PROVIDE FIRE PROTECTION SERVICES TO COUNTY SERVICE AREA 19 (CSA 19).

2. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE COUNTY OF MARIN TO ENTER INTO A 40 YEAR LEASE AGREEMENT FOR 3535 CIVIC CENTER DRIVE AND TO FUND CAPITAL IMPROVEMENTS OF FIRE STATION 57.

Type:  Resolution  Ordinance  
 Professional Services Agreement  Other: Staff Report

---

### APPROVALS

- Finance Director  
Remarks: approved MM - 06/13 and then again on 6/14
- City Attorney  
Remarks: LG-Approved 6/14/16.
- Author, review and accept City Attorney / Finance changes  
Remarks:

City Manager

Remarks:

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**FOR CITY CLERK ONLY**

**File No.:** \_\_\_\_\_

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

**REAL PROPERTY PURCHASE AGREEMENT**  
**30 JOSEPH COURT, SAN RAFAEL**

THIS REAL PROPERTY PURCHASE AGREEMENT ("**Agreement**"), made and entered into this 30<sup>th</sup> day of July, 2021 (the "**Effective Date**"), by and between CITY OF SAN RAFAEL, a charter city (hereinafter referred to as "**Seller**"), and the COUNTY OF MARIN, a political subdivision of the State of California (hereinafter referred to as "**Buyer**");

**W I T N E S S E T H:**

WHEREAS, Seller owns the real property and improvements at 30 Joseph Court, San Rafael, CA 94903, Assessor's Parcel Number 155-081-08 (the "**Property**"), and more particularly described in the legal description Exhibit A, attached; and

WHEREAS, pursuant to that certain Lease Agreement by and between Seller, as "City" and Buyer, as "County", dated June 21, 2016, in which Seller granted to Buyer an option to purchase the Property for ONE MILLION DOLLARS (\$1,000,000.00) dollars (the "**Lease Agreement**"), Buyer has investigated and is satisfied as to the suitability of the Property, as applicable, with respect to its current condition, costs, and any or all on-site or surrounding neighborhood conditions, plans and any other material or non-material item ("**Due Diligence**"); and

WHEREAS, Seller desires to sell to Buyer and Buyer wishes to purchase Property upon the terms and conditions set forth below; and

WHEREAS, Buyer has opened an escrow account with First American Title Company, escrow number NCS-981325-C.

NOW, THEREFORE, BE IT MUTUALLY AGREED:

1. Seller hereby agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller the Property for the sum ONE MILLION DOLLARS (\$1,000,000.00) ("**Purchase Price**") on terms and conditions set forth herein.

The Property which Buyer elects to purchase is hereafter referred to as the "**Sale Property**".

(A) The purchase of the Sale Property shall be handled from First American Title Company, National Commercial Services, 1850 Mt. Diablo Blvd., Suite 530, Walnut Creek, CA 94596 ("**FATC**"), escrow Number NCS-981325-C ("**Escrow**"). Seller and Buyer shall execute and deliver to FATC any additional or supplementary instructions as may be necessary or convenient to implement the terms of this Agreement and close the transactions contemplated hereby, provided such instructions are consistent with and merely supplement this Agreement and shall not in any way modify, amend or supersede this Agreement.

(B) The escrow shall close not earlier than forty (40) calendar days or later than fifty (50) calendar days after the Effective Date (unless such close is mutually extended by both Buyer and Seller). If the County Administrator, representing Buyer, and Seller both determine that it is in each party's interest to extend the close of escrow for up to ninety (90) days, then each party will submit to FATC written authorization for the extension. Close of escrow is subject to the conditions in Sections 4 and 5 of this Agreement.

(C) The Sale Property shall include the real property and all of Seller's right, title and interest to all equipment, building systems, and fixtures on, in or attached to the Sale Property, its buildings and grounds as related to the Sale Property's use, function and rehabilitation.

(D) At the Close of Escrow, Seller shall execute and deliver to FATC a Grant Deed providing title free and clear of all liens and encumbrances to the Sale Property. Additionally, the Grant Deed executed and delivered shall be free and clear of all restrictions, specifically including any restrictions related to the use of the Sale Property as a firehouse and incidental purposes. The Grant Deed shall be substantially in the form provided in Exhibit C. Title shall vest at Close of Escrow in Buyer. "**Close of Escrow**" shall be the date that the Grant Deed is recorded.

(E) From and after the date of execution of this Agreement by Seller through the Close of Escrow, Seller shall:

(1) Maintain the Sale Property in its current state until Close of Escrow, excluding ordinary wear and tear and casualty; and

(2) Refrain from performing any grading or excavation, construction, or removal of any improvements, or making any other change or improvement upon or about the Sale Property, except as required by the City of San Rafael or any other applicable governmental authority or any improvements or construction of an emergency nature in Seller's sole discretion, about which Seller shall promptly notify Buyer in writing; and

(3) Refrain from creating or incurring, or suffering to exist, any mortgage, lien, pledge, or other monetary encumbrances in any way affecting the Sale Property or title, without Buyer's written approval, except such consent shall not be required for any such matter currently in existence and for which Buyer has received notice or that will be removed prior to or upon the Close of Escrow; and

(4) Refrain from committing any waste or nuisance upon the Sale Property; and

(5) Observe all laws, ordinances, regulations, and restrictions (collectively, the "**Laws**") affecting the Sale Property and its current use, provided, that, Seller shall not be obligated to take any action with respect to

any pre-existing conditions impacting the Sale Property which do not comply with any applicable Laws; and

(6) Preserve the use, possession, and management of the Sale Property and not execute, extend, or otherwise further encumber the Sale Property with leases or other contracts, including any equipment maintenance or service contracts beyond the expected Close of Escrow, unless first approved in writing by Buyer; and

(7) Pay all charges for service contracts, association fees and dues, taxes and assessments on the Sale Property up to the Close of Escrow. If Buyer and Seller mutually agree to an extension of the time for Close of Escrow, then such agreement shall include an agreement on what date shall be used for the proration of such items.

2. Subject to and conditioned upon the Close of Escrow, Seller shall:

Pay Documentary Transfer Tax, if required, and one half of any Transfer Tax.

3. Buyer shall:

(A) Provide FATC with a copy of the Purchase Agreement upon its execution.

(B) Deposit with FATC the balance the Purchase Price (with FATC to account for all prior Buyer deposits to escrow that are applicable to the Purchase Price, if any, in cash.

(C) Pay all escrow, recording fees, and one half of any transfer tax incurred as a result of the transfer of the Sale Property by Seller to Buyer; and pay the title insurance premium.

4. Seller's obligation to sell and proceed to Close of Escrow for the Sale Property pursuant to this Agreement is subject to the satisfaction or waiver of the following conditions, which are solely for Seller's benefit unless otherwise indicated:

Buyer fully performing in all material respects each and every obligation of Buyer under this Agreement (including, without limitation, the payment of the Purchase Price), and Buyer's representations and warranties set forth in this Agreement being true and correct in all material respects as of the Close of Escrow;

5. Buyer's obligation to purchase and proceed to Close of Escrow for the Sale Property pursuant to this Agreement is subject to the satisfaction or waiver of the following conditions, which are solely for Buyer's benefit unless otherwise indicated:

(A) The issuance by FATC of an ALTA Owners Extended Coverage Policy of Title Insurance (which title policy shall be paid for by Buyer), for the Sale Property at Close of Escrow, including a mechanics "lien-free" endorsement, to be free and clear of



all liens (including Deeds of Trust), encumbrances, encroachments, assessments, easements, and taxes, except and subject only to the following matters:

(1) Real property taxes and assessments for the fiscal year in which escrow closes, subject to proration;

(2) Easements or rights of way over the land portion of the Property for public or quasi-public utilities or public street purposes, if any;

(3) All title exceptions set forth in the Preliminary Report prepared by FATC dated March 19, 2021 and updated March 26, 2021, Order Number NCS-981325-C, except for any monetary liens which are to be removed by Seller;

(4) Any title exceptions which would be disclosed by an accurate survey or an inspection of the Sale Property; and

(B) Seller having performed in all material respects each and every obligation of Seller under this Agreement, and Seller's representations and warranties set forth in this Agreement being true and correct in all material respects as of the Close of Escrow.

6. The following prorations between Seller and Buyer shall be made by FATC computed as of the Close of Escrow:

(A) All real estate taxes and assessments attributable to the Sale Property will be prorated as of the Close of Escrow. Seller shall be charged with all such taxes up to, but not including, the Close of Escrow. If the applicable tax rate and assessments for the Sale Property have not been established for the year in which the Close of Escrow occurs, the proration of real estate and/or personal property taxes, as the case may be, will be based upon the rate and assessments. If the Sale Property is not a separate tax parcel, then the real property taxes and assessments allocable to the Sale Parcel for purposes of calculating the prorations shall be based on a fraction, whose numerator is the gross square footage located upon the Sale Property and whose denominator is the gross square footage located within the tax parcel of which the Sale Property is a part; and

(B) All utility service charges for electricity, heat and air conditioning service, other utilities, maintenance, taxes other than real estate taxes such as rental taxes, other expenses incurred in operating the Sale Property that Seller customarily pays. Seller and Buyer shall obtain billings and meter readings as of the Close of Escrow to aid in such prorations; and

(C) At least two (2) business days prior to the Close of Escrow, the parties shall agree upon all of the prorations to be made and submit a statement to FATC setting forth the same. In the event that any prorations, apportionments or computations made under this Section 6 shall require final adjustment, then the parties shall make the appropriate adjustments promptly when accurate information becomes available and either party hereto shall be entitled to an adjustment to correct the same, but in no event shall such final adjustment occur later than ninety (90) days following the Close of



Escrow. Any corrected adjustment or proration shall be paid in cash to the party entitled thereto.

7. Seller makes the representations and warranties set forth below.

(A) Except as disclosed in the environmental reports Seller has delivered to Buyer, to Seller's actual knowledge, after reasonable inquiry of Seller, Seller has not received written notice or is otherwise aware of the existence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks in, on or about the Sale Property in violation of applicable law.

(B) Except as otherwise disclosed in writing to Buyer, to Seller's actual knowledge, Seller has not received written notice of any pending or threatened lawsuits or legal action that are likely to have a material, adverse effect on the Sale Property, or Buyer's intended use thereof.

(C) (1) Seller is authorized to execute and deliver this Agreement, and to perform all of its obligations hereunder; (2) this Agreement has been duly authorized on the part of Seller, and is binding upon and enforceable against Seller. Subject to the limitations set forth in Section 10 below, Seller agrees to defend, indemnify and hold Buyer harmless of and from any and all costs, expenses, damages, losses and liabilities arising out of, relating to or resulting from a breach by Seller of any of its representations and warranties set forth in this Section 7(C).

The foregoing constitutes Seller's only representations and warranties under this Agreement and with respect to the transactions described herein, and no oral representations or warranties shall be binding on Seller.

8. Buyer warrants that:

(A) It has not incurred any brokerage or leasing commissions, finder's fees or like compensation presently due and payable or which will become due and payable to any person, firm, corporation or other entity with respect to or on account of the sale of the Sale Property; and

(B) By the Close of Escrow, Buyer will have inspected and evaluated the Sale Property and factors relevant to its use, including without limitation:

(1) The physical condition of the Sale Property, including the interior and exterior, the structure, all utilities and all physical functional aspects of the Sale Property;

(2) All leases, documents and other materials given to Buyer by Seller affecting the operation of the Sale Property; and

(C) (1) Buyer is authorized to execute and deliver this Agreement, and to perform all of its obligations hereunder; (2) this Agreement has been duly authorized on the part of Buyer, and is binding upon and enforceable against Buyer. Subject to the

limitations set forth in Section 10 below, Buyer agrees to defend, indemnify and hold Seller harmless of and from any and all costs, expenses, damages, losses and liabilities arising out of, relating to or resulting from a breach by Buyer of any of its representations and warranties set forth in this Section 8(C).

9. The representations, warranties and indemnities set forth in Sections 7 and 8 shall survive for a period of eighteen (18) months following the Close of Escrow. No claim for a breach of any warranty, covenant or obligation by Seller or Buyer (the "**Defaulting Party**") set forth in Sections 7 and 8 shall be actionable or payable if (i) the other party (the "**Non-Defaulting Party**") fails to notify the Defaulting Party in writing of such breach and commence a "legal action" thereon within such eighteen (18) month period, or (ii) the breach in question results from or is based on a condition, state of facts or other matter which was actually known by the Non-Defaulting Party prior to the Close of Escrow. All other warranties, covenants and obligations described in this Agreement by Buyer and Seller shall survive delivery of the Grant Deed.

10. If prior to the Close of Escrow any portion of the Sale Property is destroyed or materially damaged or subject to a taking by a public or governmental authority, then Buyer shall have the following rights:

(A) If a material portion of the Sale Property is destroyed or materially damaged, then either Buyer or Seller shall have the right, exercisable by giving written notice to the other party within thirty (30) days after receipt of written notice from Seller to Buyer of such damage or destruction, to terminate this Agreement in which event any deposits and all interest accrued thereon shall be immediately returned to Buyer, and any other money or documents in Escrow shall be returned to the party depositing the same.

(B) For purposes of this Section 10, damage to the Sale Property shall be deemed to involve a material portion thereof if the estimated cost of restoration or repair, as estimated by Buyer and Seller in their reasonable discretion, of such damage shall exceed 15% of the Purchase Price; and

(C) Seller agrees to give Buyer prompt written notice of any taking of, proposed taking of, damage to or destruction of the Sale Property.

11. Except as otherwise expressly set forth in this Agreement, and subject to Seller's representations and warranties set forth in this Agreement, Buyer is purchasing the Sale Property in its existing condition, and upon the Close of Escrow will have made or waived all inspections and investigations of the Sale Property and its vicinity which Buyer believes are necessary to protect its own interest in, and its contemplated use of, the Sale Property.

12. In the event that Seller fails to perform any of the material covenants or agreements contained herein which are to be performed by Seller, Buyer may, at its option and as its exclusive remedy, either (i) terminate this Agreement by giving written notice of termination to Seller whereupon FATC will return to Buyer any deposits, and both Buyer and Seller will be relieved of any further obligations or liabilities hereunder, except for those obligations which expressly survive any termination hereof, or (ii) Buyer may seek specific performance of this

Agreement. If Buyer elects the remedy in subsection (ii) above, Buyer must commence and file such specific performance action in the appropriate court not later than forty-five (45) days following such breach of this Agreement.

13. Time is of the essence of all times and dates set forth in this Agreement. All exhibits attached hereto are incorporated herein by this reference.

14. Seller waives any and all claims for relocation assistance by reason of Buyer's purchase and use of the Sale Property.

15. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations, and agreements whether oral or written. Any amendment to this agreement, including an oral modification supported by new consideration, must be reduced to writing and signed by both parties before it will be effective.

16. Buyer may assign this Agreement and the rights under it but only to (i) a governmental entity or entities, or (ii) any other entity pursuant to a public or private financing of the acquisition of the Sale Property and/or for Renovations to the Sale Property (collectively, the "**Permitted Assignees**"), and such assignment must be approved by Seller, which approval shall not be unreasonably withheld. Subject to this Section 16, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, administrators, and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Words used in the singular number shall include the plural, and vice-versa, and any gender shall be deemed to include each other gender. The captions and headings of the Articles, Sections, and Paragraphs of this Agreement are for convenience of reference only, and shall not be deemed to define or limit the provisions hereof.

17. Any and all notices required or permitted under this Agreement or by law shall be given in writing either by personal service or by registered or certified mail, postage prepaid. Any such notice shall be effective as of the date it is mailed or delivered. Notices shall be addressed as shown below for each party, except that, if any party gives notice of a change of name or address, notices to that party shall thereafter be given as shown in that notice.

To Seller:                      City of San Rafael  
    Attn: City Manager  
    1400 Fifth Avenue, Room 203  
    San Rafael, CA 94901

To Buyer:                      County of Marin  
    Attn: County Administrator  
    3501 Civic Center Drive, Suite 325  
    San Rafael, California 94903

18. Seller and Buyer agree that this Agreement has been mutually drafted and authored by all the parties. Ambiguities or uncertainties in the wording of this Agreement will not be construed for or against any party, and there shall be no presumption that this Agreement or any provision hereof be construed against the party that drafted this Agreement.

19. This Agreement may be executed in counterparts, and all counterparts together shall be construed as one document.

20. Seller and Buyer agree to execute such additional documents and take such actions as may be reasonable and necessary to carry out the intent and/or provisions of the Agreement.

21. If any term or provision or portion thereof of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision or portion thereof to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

22. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

23. Unless the context otherwise requires, all periods terminating on a given day, period of days, or date shall terminate at 5:00 p.m. (Pacific time) on such date or dates, and references to "days" shall refer to calendar days except if such references are to "business days" which shall refer to days which are not Saturday, Sunday or a legal holiday. Notwithstanding the foregoing, if any period terminates on a Saturday, Sunday or a legal holiday, under the laws of the State of California or County of Marin, the termination of such period shall be on the next succeeding business day.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

CITY OF SAN RAFAEL (SELLER)

  
KATE COLIN, Mayor

COUNTY OF MARIN (BUYER)

  
DENNIS RODONI, President of the Board of Supervisors

ATTEST:

ATTEST:

*for*   
LINDSAY LARA, City Clerk

  
MATTHEW HYMEL, Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

*for*   
ROBERT EPSTEIN, City Attorney

  
BRIAN WASHINGTON, County Counsel  
By: STEPHEN RAAB, Deputy

I hereby certify under penalty of perjury that the President of the Board of Supervisors was duly authorized to execute this document on behalf of the County of Marin by a vote of the Board on July 20, 2021; and that a copy has been delivered to the President as provided by Government Code section 25103.

DATED: 7/20/21

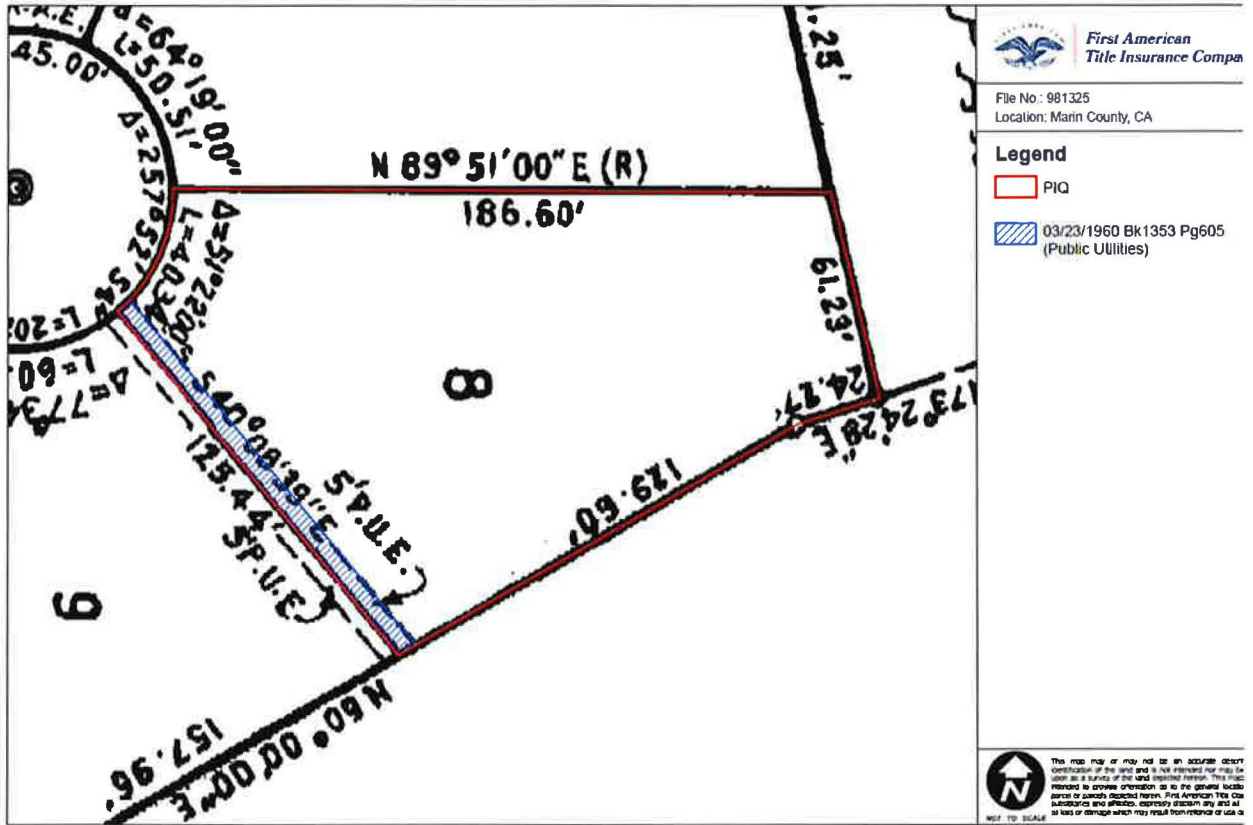
Matthew H. Hymel, Clerk, Board of Supervisors

By: 

**LIST OF EXHIBITS**

- Exhibit A-1: Property parcel map
- Exhibit A-2: Property Legal Description
- Exhibit B: Form of Grant Deed

**EXHIBIT A-1**  
**Property Parcel Map: APN 155-081-08**





**EXHIBIT A-2**  
**PROPERTY LEGAL DESCRIPTION**

**LEGAL DESCRIPTION**

Real property in the City of San Rafael, County of Marin, State of California, described as follows: BEGINNING AT A POINT ON THE NORTHERLY LINE OF LOT 4, AS SHOWN ON THE MAP ENTITLED "MAP OF MARIN PROFESSIONAL CENTER UNIT 1" FILED FOR RECORD MARCH 03, 1958 IN BOOK 9 OF MAPS, PAGE 94, MARIN COUNTY RECORDS; SAID POINT BEING DISTANT THEREON NORTH 73° 24' 28" EAST 24.27 FEET FROM THE INTERSECTION OF THE COURSES "NORTH 60° 00' EAST 420.00 FEET AND NORTH 73° 24' 28" EAST 340.44 FEET" AS SHOWN UPON THE ABOVE ENTITLED MAP; RUNNING THENCE NORTH 12° 13' 00" WEST 61.23 FEET; THENCE SOUTH 89° 51' 00" WEST 186.60 FEET; THENCE ON A CURVE TO THE RIGHT WHOSE CENTER BEARS SOUTH 89° 51' 00" WEST 45.00 FEET THROUGH A CENTRAL ANGLE OF 51° 22' 00" AN ARC DISTANCE OF 40.34 FEET; THENCE SOUTH 40° 08' 39" EAST 123.44 FEET TO A POINT ON THE NORTHWESTERLY LINE OF LOT 4, MAP ABOVE REFERRED TO; THENCE ALONG THE NORTHWESTERLY LINE OF SAID LOT 4, MAP ABOVE REFERRED TO, NORTH 60° 00' EAST 129.60 FEET AND NORTH 73° 24' 28" EAST 24.27 FEET TO THE POINT OF BEGINNING.

ALSO SHOWN AS LOT 8 ON THE MAP ENTITLED "MAP OF COMMONWEALTH LIGHT INDUSTRIAL SUBDIVISION", FILED FEBRUARY 18, 1960 IN BOOK 10 OF MAPS, PAGE 51, MARIN COUNTY RECORD.

APN: 155-081-08

**EXHIBIT B**  
**FORM OF GRANT DEED**

**RECORDING REQUESTED BY**  
\_\_\_\_\_

**AND WHEN RECORDED MAIL TO:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Space Above This Line for Recorder's Use Only \_\_\_\_\_

A.P.N.: \_\_\_\_\_

File No.: \_\_\_\_\_ (\_\_\_\_\_)

**GRANT DEED**

The Undersigned Grantor(s) Declare(s): DOCUMENTARY TRANSFER TAX \$\_\_\_\_\_; CITY TRANSFER TAX \$\_\_\_\_\_;  
SURVEY MONUMENT FEE \$\_\_\_\_\_

- [ \_\_\_\_\_ ] computed on the consideration or full value of property conveyed, OR
- [ \_\_\_\_\_ ] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
- [ \_\_\_\_\_ ] unincorporated area; [ \_\_\_\_\_ ] City of \_\_\_\_\_, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, \_\_\_\_\_  
\_\_\_\_\_

hereby GRANTS to \_\_\_\_\_

the following described property in the \_\_\_\_\_ of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_:

Dated: \_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_

Mail Tax Statements To: **SAME AS ABOVE**

A.P.N.:

Grant Deed - continued

File No.: \_\_\_\_\_ ( )

Date: \_\_\_/\_\_\_/\_\_\_

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss.

On \_\_\_\_\_, before me, \_\_\_\_\_ personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

*This area for official notarial seal*

Signature  
\_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Notary Name: \_\_\_\_\_  
Notary Registration Number: \_\_\_\_\_

Notary Phone: \_\_\_\_\_  
County of Principal Place of Business: \_\_\_\_\_

**Agenda Item No. 5.c**

**ORDINANCE NO. 1996**

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING TITLE 14 (ZONING ORDINANCE) AND AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO:**

- A) REPEAL THE EXISTING DOWNTOWN ZONING DISTRICTS, AND REPLACE WITH DOWNTOWN MIXED-USE (DMU) DISTRICT;**
- B) AMEND, DELETE AND REPLACE CERTAIN ZONING PROVISIONS APPLICABLE TO DOWNTOWN SAN RAFAEL; AND**
- C) AMEND, DELETE AND REPLACE OTHER ZONING REGULATIONS TO COMPLY WITH STATE LAW AND INCORPORATE OTHER MINOR CHANGES, CORRECTIONS AND UPDATES**

(CASE NOS. ZO21-003 AND ZC21-002)

**WHEREAS**, in 2004, the City adopted the San Rafael General Plan 2020 with a horizon year of 2020. In 2018, the City initiated a General Plan Update (General Plan 2040) to move the Plan's horizon forward 20 years to 2040; and

**WHEREAS**, in late 2018, the City received a One Bay Area Grant to fund the preparation of a focused Plan for Downtown San Rafael, the Downtown San Rafael Precise Plan (Downtown Precise Plan), under the umbrella of the San Rafael General Plan 2040. The Downtown Precise Plan was budgeted and scoped to include a "form-based code" to establish new zoning regulations for the Downtown Precise Plan area that would replace the existing property zoning and many of the existing zoning code regulations (SRMC Title 14, Zoning) that are applicable to the Downtown area; and

**WHEREAS**, in Fall 2020, the City completed and released the Draft General Plan 2040 and the Downtown Precise Plan for public review. The Downtown Precise Plan includes Chapter 9 – Downtown Form-Based Code (form-based code); and

**WHEREAS**, City staff has drafted amendments to San Rafael Municipal Code (SRMC) Title 14-Zoning (Zoning Ordinance) and Zoning Map to acknowledge and support the Downtown Precise Plan form-based code through: a) recommending a repeal of the existing Downtown zoning districts (4SRC, CSMU, HO, 2/3 MUE, 2/3 MUW, WEV, and 5/M R/O) and replacing these districts with a newly established Downtown Mixed-Use (DMU) District; b) amending, deleting and replacing certain zoning provisions applicable to Downtown San Rafael; and c) introducing new provisions to address and reference the Downtown Precise Plan form-based code that would be adopted by separate ordinance. These proposed amendments are presented in attached Exhibits A and B; and

**WHEREAS**, the proposed amendments to SRMC Title 14 – Zoning and Zoning Map set forth in Exhibits A and B, together with the Downtown Precise Plan form-based code, establish the State-require zoning legislation for Downtown San Rafael within the boundaries of the proposed DMU District; and

**WHEREAS**, in addition to the proposed amendments applicable to Downtown San Rafael, City staff has drafted miscellaneous amendments to the SRMC Title 14 - Zoning to propose minor changes in use and permit provisions specific to, among others, permitting provisions for cannabis manufacturing use and large family day care homes that were initiated by changes in state laws. These proposed amendments are presented in attached Exhibit C. These miscellaneous amendments coupled with the draft amendments

## **Agenda Item No. 5.c**

addressing the Downtown Precise Plan are collectively presented under one ordinance action proposed herein; and

**WHEREAS**, per the provisions of the California Environmental Quality Act (CEQA), the proposed amendments to SRMC Title 14 – Zoning presented in attached Exhibits A and B are subject to environmental review. The San Rafael General Plan 2040 and Downtown Precise Plan Final Environmental Impact Report (FEIR) has been completed, which assesses the environmental impacts of the Downtown Precise Plan including the proposed amendments to SRMC Title 14 – Zoning (collectively, the “project”). The FEIR has been certified by separate resolution of the City Council; and

**WHEREAS**, in considering action to adopt the General Plan 2040, the Downtown Precise Plan and proposed amendments to SRMC Title 14 – Zoning presented in Exhibits A and B, the City has reviewed the certified FEIR and all applicable mitigation measures therein. The certified FEIR has concluded that the project will result in significant and unavoidable impacts associated with Air Quality, Cultural Resources, Greenhouse Gas Emissions, and Transportation. The City has weighed the proposed project benefits against the significant, unavoidable adverse environmental effects. By separate resolution and consistent with the CEQA Guidelines Section 15063, the City has approved the CEQA Statement of Findings of Fact and Statement of Overriding Considerations supporting and substantiating adoption of the General Plan 2040, the Downtown Precise Plan, and the related amendments to SRMC Title 14 – Zoning presented in Exhibits A and B. This separate resolution also recommends the approval of a Mitigation Monitoring and Reporting Program (MMRP) to ensure that the required FEIR mitigation measures are incorporated into the project action; and

**WHEREAS**, the accompanying miscellaneous amendments to certain permit provisions in SRMC Title 14 – Zoning presented in attached Exhibit C have been assessed for compliance with CEQA. As drafted, the amendments do not propose any changes to City policies or regulations that would result in a direct or indirect physical, environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3), and is not subject to environmental review; and

**WHEREAS**, on June 29, 2021, the Planning Commission held a duly noticed public hearing on the proposed amendments to the SRMC Title 14 and the Zoning Map, Exhibits A through C, accepting all public testimony and the written report of the Community Development Department. On a 4-0 vote, the Planning Commission adopted Resolution No. 2021-06 recommending City Council approval of this Draft Ordinance; and

**WHEREAS**, on August 2, 2021, by action of separate resolution, the City Council adopted the San Rafael General Plan 2040 and the Downtown Precise Plan; and

**WHEREAS**, on August 2, 2021, the City Council held a duly noticed public hearing through a public notice published the Marin Independent Journal. The Council considered the proposed amendments to San Rafael Municipal Code (SRMC) Title 11- (Public Works), Title 14- Zoning (Zoning Ordinance) and Zoning Maps as outlined in Exhibits A through C, accepting all public testimony and the written report of the Community Development Department; and

**WHEREAS**, the City Council makes the following findings, pursuant to SRMC Section 14.27.060 for adoption of the amendments to San Rafael Municipal Code (SRMC) Title 11- (Public Works), Title 14- Zoning (Zoning Ordinance) and Zoning Maps as outlined in attached Exhibits A to C:

## Agenda Item No. 5.c

1. The amendments to San Rafael Municipal Code Title 14 – Zoning Ordinance and Zoning Map, together with the Downtown Precise Plan Chapter 9 – Downtown Form-Based Code adopted by separate ordinance, are consistent with the policies and programs of the adopted San Rafael General Plan 2040 and Downtown Precise Plan in that:
  - a. The amendments create zoning consistency with the General Plan 2040. First, the amendments would establish the Downtown Mixed-Use (DMU) District, which would be consistent with the Downtown Mixed-Use land use category in the Land Use Element. The establishment of the DMU District is critical and necessary as it is the foundation for the Downtown Precise Plan form-based code, which will serve as the zoning code for Downtown. Second, as drafted, the Downtown Precise Plan form-based code is consistent with the Downtown Mixed-Use land use category, which: 1) calls for allowing a mix of land uses at higher development intensities within the City; and 2) departs from the traditional residential density limits through use of building height limits and prescribed building form standards, and transitions development allowances along the edges of Downtown. Lastly, the amendments would implement Land Use Element Program LU-2.1A, which recommends amending the zoning ordinance and zoning map to incorporate the policies and programs of the General Plan 2040, thus resulting in consistency between the General Plan and zoning.
  - b. The proposed amendments would be consistent with the Land Use Element, specifically Goal LU-1, Policy LU-1.10, Policy LU-1.17, Policy LU-1.18, Policy LU-2.2, and Program LU-2.2B in that they: 1) support and respond to the Downtown Precise Plan which set forth well-managed changes and growth for Downtown; 2) defer to the Downtown Precise Plan for development intensity limit; 3) acknowledge and codify the building height and height bonus regulations and provisions presented in the Downtown Precise Plan; and 4) support and codify planned mixed-use development in Downtown. Further, the proposed amendments would be consistent with Policy LU-3.1 (Area Plans), which reinforces the preparation and adoption of community-based Area Plans (e.g., the Downtown Precise Plan) to direct planning and future growth for a specific area.
  - c. The proposed amendments would be consistent with the Neighborhood Element, specifically Policy NH-1.1, Program NH-1.1A, Policy NH-1.3, Policy NH-1.7, Program NH-1.7A, Policy NH-1.8 and Program NH-1.8A in that they would: 1) implement the Downtown Precise Plan and incorporate the Downtown Precise Plan form-based code to guide development and investment; 2) establish the zoning tool to support and guide the development of mixed-use and needed housing in Downtown; 3) ensure that new construction and development is sensitive to Downtown’s context; and 4) provide measures to ensure the protection, preservation and enhancement of Downtown’s historic resources.
  - d. Together with the Downtown Precise Plan Chapter 9 - Form-Based Code the proposed amendments would be consistent with the Community Design policies and programs of the Community Design and Preservation Element, specifically Program CDP-1.5C, Program CDP-2.1A, CDP-2.2A, Policy CDP-3.1, Program CDP-4.1C, Program CDP-4.2A, and Program CDP-4.8A in that they would: a) create a Downtown height profile; b) codify design standards for the “place types” identified in the Downtown Precise Plan; c) adopt a zoning tool that implements the design recommendations of the Downtown Precise Plan; d) encourage the design and development of plazas and active public spaces; e) provide design guidelines and standards through the adoption of a form-based code; and f) introduce building step-backs as a tool for implementing scale transitions in new development.
  - e. Together with the Downtown Precise Plan, the proposed amendments would be consistent with the Historic Resources policies and programs of the Community Design and Preservation Element, specifically, Policy CDP-5.2, Policy CDP-5.4, in that they would: a) include the adoption of an updated historic resources inventory for Downtown; and b) incorporate incentives for encouraging preservation and stewardship of the Downtown historic resources.
  - f. The proposed amendments would create consistency between the SRMC Title 14 zoning provisions and regulations with the Downtown Precise Plan form-based code, which is adopted by separate ordinance and incorporated herein by reference.

## **Agenda Item No. 5.c**

- g. The proposed amendments would establish a new DMU District to blanket the Downtown Precise Plan area. The DMU District will provide a base zoning and foundation for the Downtown Precise Plan area and form-based code and the other accompanying amendments.
  - h. The amendments are necessary to codify the Downtown Precise Plan and form-based code as the zoning code for Downtown San Rafael.
  - i. The proposed miscellaneous amendments to SRMC Title 14 – Zoning would update the code to address current trends and laws through: 1) modifying the cannabis manufacturing use regulations and provisions to align with the current State laws; 2) eliminating the City’s large family day care home permitting and provisions which are no longer applicable to enforce; and 3) establishing consistent sunset dates for all permits and entitlements regulated under Title 14 – Zoning.
2. The public health, safety and general welfare are served by the adoption of the proposed amendments to SRMC Title 14 – Zoning Ordinance in that they would acknowledge and adopt by reference the Downtown Precise Plan form-based code, which is adopted by separate ordinance. Collectively, the proposed amendments together with the Downtown Precise Plan Chapter 9- Downtown Form-Based Code would present well-managed changes and growth for Downtown that would:
- a. Establish standards and regulations on building height and bulk to promote a more urban scale for growth of commerce and housing, while protecting the character and scale of the contiguous neighborhoods and surrounding community.
  - b. Establish standards and regulations that would protect San Rafael’s historic resources.
  - c. Establish standards and regulations to promote safe and efficient multi-modal travel.
  - d. Establish standards and regulations that would promote orderly growth and facilitate the development of needed housing in Downtown San Rafael.
  - e. Establish consistency with the General Plan 2040 and the policies of the Downtown Precise Plan.
  - f. Revise and update miscellaneous permit provisions in the Zoning Ordinance to address changes in the state law and to provide internal consistency in permit expiration dates.

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

### **DIVISION 1. Findings**

The City Council of the City of San Rafael hereby determines and finds that all of the facts and statements contained in the recitals herein and the findings of Planning Commission Resolution No. 2021-06, adopted June 29, 2021 recommending to the City Council adoption of this Ordinance, are true and correct.

### **DIVISION 2. Approval**

The City Council of the City of San Rafael hereby approves and adopts the amendments to SRMC Title 14- Zoning (Zoning Ordinance) and Zoning Maps as presented in Exhibits A through C, attached hereto and incorporated herein by reference.

### **DIVISION 3. Publication**

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

**Agenda Item No. 5.c**

names of those 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, Marin County, 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 or against the Ordinance.



KATE COLIN, Mayor

ATTEST:



LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1996 was read and introduced at a regular meeting of the City Council of the City of San Rafael on Monday, August 2, 2021 and was ordered passed to print by the following vote, to wit:

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

NOES: Councilmembers: None

ABSTAIN: 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 16<sup>th</sup> day of August 2021.



LINDSAY LARA, City Clerk

Exhibits:

- A. Amendments to San Rafael Municipal Code Title 14 Zoning Ordinance
- B. Amendments to San Rafael Municipal Code Title 14 Zoning Map
- C. Amendments to San Rafael Municipal Code Title 14 Zoning Ordinance (Cannabis Manufacturing Use, Large Family Day Care Homes, and Miscellaneous Amendments)



**EXHIBIT A**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE**  
**TO INCORPORATE & REFERENCE THE**  
**DOWNTOWN SAN RAFAEL PRECISE PLAN & FORM-BASED CODE**  
**July 2021**

The following are amendments to the SRMC Title 14 (Zoning) to address and incorporate by reference the Downtown San Rafael Precise Plan and Form-Based Code, adopted by separate ordinance:

**Section 1. Amendments to Chapter 14.01 – TITLE, COMPONENTS AND PURPOSES**

**Section 1.1. Amend Section 14.01.020 – Components to amend subsection A to add new A.3 and to amend subsection B, to read as follows:**

- A. The zoning ordinance shall consist of the following components:
1. A map, or set of maps, known as the zoning map, delineating the boundaries of zoning districts within the City of San Rafael.
  2. Regulations, known as zoning regulations, governing the use of land, and placement of buildings and improvements within the various classes of districts. Such regulations shall include, but not be limited to, property development standards for each district, parking standards, performance standards, and procedural rules for administering the ordinance.
  3. The Downtown San Rafael Precise Plan, Form-Based Code and Downtown zoning map adopted by separate ordinance and incorporated herein by reference. The Downtown San Rafael Precise Plan and Form-Based Code include certain zoning regulations, governing the land use and placement of building and improvements for those properties within the boundaries of the downtown area, defined by the Downtown Mixed Use district. Where the Downtown San Rafael Form-Based Code is silent on regulations and provisions, the regulations and provisions presented in this title 14 shall apply.
- B. A copy of the zoning regulations and the zoning map, Downtown San Rafael Precise Plan Form-Based code and Downtown zoning map, together with a record of all amendments, shall be kept on file with the city clerk and shall constitute the original record. A copy of the zoning regulations and zoning map currently in effect shall also be kept on file in the Community Development Department and Office of the City Clerk.

**Section 1.2. Amend the Zoning Map to replace the Downtown zoning districts (4SRC, CSMU, HO, 2/3 MUE, 2/3 MUW, WEV, and 5/M-R/O) with the Downtown Mixed Use (DMU) District, which covers the boundaries of the Downtown San Rafael Precise Plan area.**

See Zoning Map change in Exhibit B, incorporated herein by reference.

**EXHIBIT A**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE**  
**TO INCORPORATE & REFERENCE THE**  
**DOWNTOWN SAN RAFAEL PRECISE PLAN & FORM-BASED CODE**  
**July 2021**

**Section 2. Amendments to Chapter 14.02 – ORGANIZATION, APPLICABILITY AND INTERPRETATION**

**Section 2.1. Amend Section 14.02.030 – Applicability of land use and development regulations to read as follows:**

Base District Designator	Base District Name	Chapter
R2a	Single-family Residential District Minimum lot size: 2 acres	<a href="#">14.04</a>
R1a	Single-family Residential District Minimum lot size: 1 acre	<a href="#">14.04</a>
R20	Single-family Residential District Minimum lot size: 20,000 sq. ft.	<a href="#">14.04</a>
R10	Single-family Residential District Minimum lot size: 10,000 sq. ft.	<a href="#">14.04</a>
R7.5	Single-family Residential District Minimum lot size: 7,500 sq. ft.	<a href="#">14.04</a>
R5	Single-family Residential District Minimum lot size: 5,000 sq. ft.	<a href="#">14.04</a>
DR	Duplex Residential District 2,500 sq. ft. per dwelling unit	<a href="#">14.04</a>
MR5	Multifamily Residential District (Medium Density) 5,000 sq. ft. per dwelling unit	<a href="#">14.04</a>
MR3	Multifamily Residential District (Medium Density) 3,000 sq. ft. per dwelling unit	<a href="#">14.04</a>
MR2.5	Multifamily Residential District (Medium Density) 2,500 sq. ft. per dwelling unit	<a href="#">14.04</a>

**EXHIBIT A**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE**  
**TO INCORPORATE & REFERENCE THE**  
**DOWNTOWN SAN RAFAEL PRECISE PLAN & FORM-BASED CODE**  
**July 2021**

Base District Designator	Base District Name	Chapter
MR2	Multifamily Residential District (Medium Density) 2,000 sq. ft. per dwelling unit	<a href="#">14.04</a>
HR1.8	Multifamily Residential District (High Density) 1,800 sq. ft. per dwelling unit	<a href="#">14.04</a>
HR1.5	Multifamily Residential District (High Density) 1,500 sq. ft. per dwelling unit	<a href="#">14.04</a>
HR1	Multifamily Residential District (High Density) 1,000 sq. ft. per dwelling unit	<a href="#">14.04</a>
GC	General Commercial District	<a href="#">14.04</a>
NC	Neighborhood Commercial District 1,800 sq. ft. per dwelling unit	<a href="#">14.04</a>
O	Office District	<a href="#">14.05</a>
C/O	Commercial/Office District 1,000 sq. ft. per dwelling unit	<a href="#">14.05</a>
R/O	Residential/Office District 1,000 sq. ft. per dwelling unit	<a href="#">14.05</a>
FBWC	Francisco Boulevard West Commercial District	<a href="#">14.05</a>
DMU	Downtown Mixed Use District. See Downtown San Rafael Precise Plan Form-Based Code and Downtown Zoning map adopted by separate ordinance.	<a href="#">14.05</a>
I	Industrial District	<a href="#">14.06</a>
LI/O	Light Industrial/Office District	<a href="#">14.06</a>

**EXHIBIT A**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE**  
**TO INCORPORATE & REFERENCE THE**  
**DOWNTOWN SAN RAFAEL PRECISE PLAN & FORM-BASED CODE**  
**July 2021**

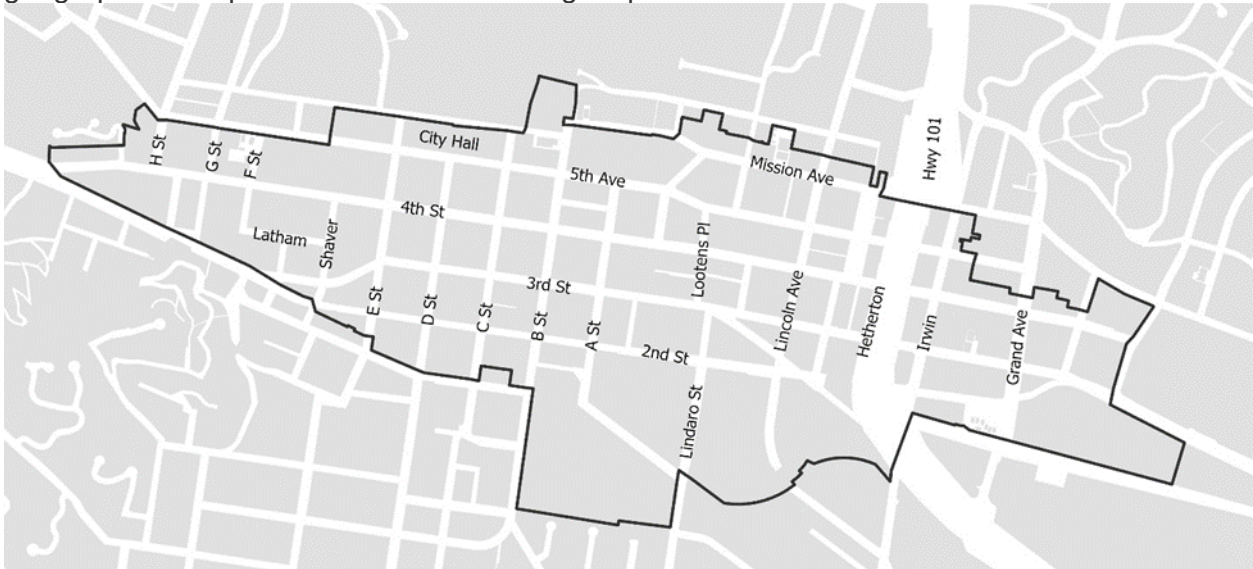
Base District Designator	Base District Name	Chapter
CCI/O	Core Canal Industrial/Office District	<a href="#">14.06</a>
LMU	Lindaro Mixed Use District	<a href="#">14.06</a>
PD	Planned Development District	<a href="#">14.07</a>
M	Marine District	<a href="#">14.08</a>
P/QP	Public/Quasi-Public District	<a href="#">14.09</a>
P/OS	Parks/Open Space District	<a href="#">14.10</a>
W	Water District	<a href="#">14.11</a>

**Section 3. Amendments to Chapter 14.03 - DEFINITIONS**

**Section 3.1. Amend Section 14.03.030 – Definitions as shown below:**

**AMEND the definition of Downtown and the associated map to read as follows:**

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



**EXHIBIT A**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE**  
**TO INCORPORATE & REFERENCE THE**  
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**AMEND the definition of Downtown parking and DELETE the associated map as follows:**

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

**DELETE definition of "Downtown's West End and environs" and DELETE associated Diagram B**

**DELETE definition of "Downtown Zoning District" and DELETE associated map**

**ADD the following new definition:**

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

**Section 4. Amendments to Chapter 14.04 – RESIDENTIAL DISTRICTS (R, DR, MR, HR)**

**Section 4.1. Amend Section 14.04.040 – Property development standards (DR, MR, HR), Table 14.04.040 to amend footnote J to read as follows:**

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

**Section 5. Amendments to Chapter 14.05 – COMMERCIAL AND OFFICE DISTRICTS**

**Section 5.1. Amend Section 14.05.010 Specific purposes – Commercial and Office Districts by deleting subsections P, Q, R, S, T and U and amend subsection L to read as follows:**

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

**Section 5.2. Repeal Section 14.05.022 – Land Use Regulations (4SRC, CSM, HO, 2/3 MUE, 2/3 MUW, WEV, 5/M, R/O) and Table 14.05.022 and replace existing district regulations with new Section 14.05.022 regarding Downtown Mixed Use (DMU) District land use to read as follows:**

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14.05.022 - Land use regulations (DMU).

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

**Section 5.3. Repeal Section 14.05.032 – Property development standards (4SRC, CSM, HO, 2/3 MUE, 2/3 MUW, WEV, 5/M, R/O) and replace existing district standards with new Section 14.05.032 regarding Downtown Mixed Use (DMU) District development standards as follows:**

14.05.032 – Property development standards (DMU).

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

**Section 6. Amendments to Chapter 14.16 – SITE AND USE REGULATIONS**

**Section 6.1. Amend Section 14.16.040 – Buildings over three stories to read:**

14.16.040 - Buildings over three stories.

Existing buildings with more than three (3) stories in height located outside the Downtown Mixed Use (DMU) district, which were constructed or approved as of January 1, 1987 shall be considered conforming. These buildings include, but are not limited to, the following:

**Table [14.16.040](#)**  
**BUILDINGS OVER THREE (3) STORIES**

Address	Building
4000 Civic Center Dr.	Marin Executive Center
4040 Civic Center Dr.	Northgate East
100—500 Deer Valley	Smith Ranch Hills Retirement Home
535—565 Jacoby	Marin Resource Recovery Center
100 McInnis Parkway	Embassy Suites Hotel

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Address	Building
99 Monticello Road	Kaiser Medical Center
899 Northgate	Quail Hill Office Building
1000 Northgate	Macy's
1010 Northgate	Four Points Sheraton Hotel
1050 Northgate	Holiday Office Building
9000 Northgate	Sears
1 Thorndale	Villa Marin Retirement Residences

**Section 6.2. Amend Section 14.16.140 – Fences and walls to read:**

4.16.140 - Fences and walls.

This section establishes regulations for the height, location and materials of fences, retaining walls and privacy walls. The regulations are intended to prevent fences or walls which are a detriment to the appearance and character of the community and to protect the public health, safety and welfare by assuring adequate sight distance is provided and maintained at street intersections and driveways. The provisions of this section do not apply to properties within the Downtown Mixed Use district. For fence and wall regulations within the Downtown Mixed Use district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

**Section 6.3. Amend Section 14.16.150 – Floor area ratios and densities applicable to non-residential and mixed-use development to amend subsection A.2 to read as follows:**

2. FAR limits in non-residential zoning districts are provided in the General Plan Land Use Element, except that for the Downtown Mixed Use (DMU) district, intensity and development limitations are governed by the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. The maximum allowable FAR is not guaranteed and shall be determined by the following factors: site constraints, infrastructure capacity, hazardous conditions and design policies.

**Section 6.4. Amend Section 14.16.150 subsection G – Floor area ratio limit standards and delete maps as follows:**

G. Floor Area Ratio Limit Standards.

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1. For properties within the Downtown Mixed Use (DMU) district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.
  - a. FARs may be transferred from one portion to another of a parcel split by FAR designations if the transfer results in a scale compatible with surrounding development, as permitted in [Section 14.16.340](#), Transfer of density on-site.
  - b. A one-time increase in FAR up to ten percent (10%) of the building or seven hundred fifty (750) square feet, whichever is larger, shall be allowed for expansion of commercial and office structures if consistent with the provisions of this title, consistent with the provisions of [Chapter 14.22](#), Use Permits. A traffic study may be required for a FAR increase for buildings on Fifth or Mission Avenues.
  
2. A higher FAR may be permitted at the intersection of Andersen Drive, Highway 101 and Francisco Blvd. West, if the proposed development would substantially upgrade the area and include bulk and region-serving specialty retail and/or hotel uses, subject to a use permit ([Chapter 14.22](#)).
  
3. Mini-storage projects may be permitted up to 1.0 FAR by use permit if the planning commission finds:
  - a. The facility is needed in the community;
  - b. The design of the project is compatible with surrounding uses;
  - c. The project is designed so that it cannot be converted to other, more intensive uses; and
  - d. The location is appropriate for this type of use.

**Section 6.5. Amend Section 14.16.190 – Height bonus to read as follows:**

14.16.190 - Height bonus.

A. Downtown Mixed Use District Height Bonuses. In the Downtown Mixed Use district an applicant may request a height bonus as set forth below, instead of a request for a density bonus allowed by Section 14.16.030 and by City Council resolution establishing density bonus regulations (resolution 14891). A height bonus requested under this section shall be granted by the planning commission through an environmental and design review in the following downtown zoning districts. No more than one height bonus may be granted for a project and these height bonuses shall not be in addition to waivers/concessions allowed by the city's density bonus regulations and policies. A height bonus specified by the Downtown San Rafael Precise Plan Form-Based Code shall be allowed for any of the following:

1. Affordable housing projects where all units are located on-site. The allowable height bonus shall be as follows:
  - a. Housing projects that restrict 10% of units to low income households are allowed a 10-foot height bonus for all areas in the Downtown Precise Plan;



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b. Housing projects that restrict more than 10% of units to low income households are allowed a 20-foot height bonus in those areas identified as "Tier 2" areas in Figure 4.8 of the Downtown Precise Plan.

2. Public courtyards, plazas and/or passageways that exceed the minimum requirements in the Downtown Form-Based Code, with the recommendation of the design review board that the public improvements are consistent with Downtown San Rafael Precise Plan Form-Based Code

3. Public parking, providing it is not facing Fourth Street and it is consistent with the Downtown San Rafael Precise Plan Form-Based Code.

4. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe.

5. Public passageways in the West End area, with the recommendation of the design review board that the public passageway serves an important public purpose and is attractive and safe

B. Lincoln Avenue Height Bonus. A twelve-foot (12') height bonus may be granted for affordable housing on Lincoln Avenue outside of the Downtown Mixed Use zoning district, between Mission Avenue and Hammondale Ct., on lots greater than one hundred fifty (150') in width and twenty thousand (20,000) square feet in size, consistent with Section 14.16.030 (Affordable housing).

C. Marin Square Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing at the Marin Square and Gary Place properties, consistent with Section 14.16.030 (Affordable housing).

D. North San Rafael Town Center Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing in the North San Rafael Town Center, consistent with Section 14.16.030 (Affordable housing).

E. Hotel Height Bonus. A height bonus of twelve feet (12') may be granted for a hotel provided the planning commission finds that the hotel will be a significant community benefit and the design is consistent with design review board recommendations.

F. Residential Development Height Bonus. A residential development project with 100% of the total units available to lower income households, and located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, shall be eligible for a height increase of up to 33 feet. This bonus shall not be combined with any other height bonus listed above.

**Section 6.6. Amend Section 14.16.243 – Mechanical equipment screening to read as follows:**

14.16.243 - Mechanical equipment screening.

Equipment placed on the rooftop of a building or in an exterior yard area shall be adequately screened from public view. See [Chapter 14.16](#) for exclusions to maximum height

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requirements and [Chapter 14.25](#) for design review requirements. For mechanical equipment screening requirements and standards applicable to properties within the Downtown Mixed Use (DMU) district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

**Section 6.7. Amend Section 14.16.260 – Noise standards, subsection C, Development Adjacent to Commercial, Mixed-Use and Industrial Districts to read as follows:**

C. Development Adjacent to Commercial, Downtown Mixed Use, Mixed Use and Industrial Districts. New nonresidential development shall not increase noise levels in a commercial area by more than five (5) dBA (Ldn), or create noise impacts which would increase noise levels to more than sixty-five (65) dBA (Ldn) for office, retail or mixed use districts, or seventy (70) dBA (Ldn) for industrial districts, at the property line of the noise receiving use, whichever is the more restrictive standard. This standard may be waived by the planning director if, as determined by a noise analysis, there are mitigating circumstances (such as higher existing noise levels), and no uses would be adversely affected.

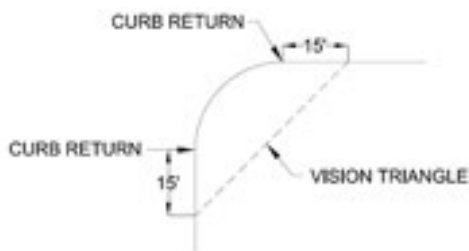
**Section 6.8. Amend Section 14.16.295 – Sight distance to read as follows:**

14.16.295 - Sight distance.

A. Fencing, vegetation and improvements shall be established and maintained only in a manner that does not reduce visibility for the safe ingress and egress of vehicles or pedestrians within a required vision triangle, e.g., fifteen feet (15') from the curb return at any intersection or driveway, or as determined by the director of public works. In general, fencing and improvements or vegetation located within the established vision triangle (as determined below) shall not exceed a height of three feet (3') as measured above the adjacent street pavement. The vision triangle shall be kept free of any visual obstruction between a height of three feet (3') to eight feet (8') above the street grade elevation.

The typical vision triangle area shall be determined as follows:

Illustration [14.16.295](#)



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B. For locations that have obstructions due to unique site constraints or topography, the vision triangle shall be determined by the director of public works.

C. The provisions of this section are not applicable to properties within the Downtown Mixed Use (DMU) district. For sight distance provisions and standards in the Downtown Mixed Use district, see the Downtown San Rafael Precise Plan Form-Based Code which is adopted by separate ordinance and incorporated herein by reference.

**Section 7. Amendments to Chapter 14.17 – PERFORMANCE STANDARDS**

**Section 7.1. Repeal Section 14.17.050 – Offices and financial institutions in the Fourth Street Retail Core and the West End Village.**

**Section 7.2. Amend Section 14.17.100 – Residential uses in commercial districts to read as follows:**

14.17.100 – Residential uses in commercial districts.

A. Purpose. The purpose of this section is to ensure that residential uses in commercial districts are not adversely impacted by adjacent uses. Residential uses are encouraged in commercial zoning districts, including the Downtown Mixed Use (DMU) district, and in mixed-use development to meet local housing needs and because of the environment they create. However, potential traffic noise and safety impacts related to commercial uses may impact nearby residential uses. The proximity of residential and commercial uses require that special regulations be imposed in the interest of businesses and the residents of the housing units.

B. Applicability. Performance standards for residential uses in commercial districts shall be applied through an administrative use permit in the GC, FBWC, C/O, M and NC districts.

C. Standards.

1. Location. Location of residential units in the GC, FBWC, HO, C/O, M and NC districts shall be determined through project review.

2. Access. Residential units shall have a separate and secured entrance and exit.

3. Parking. Residential parking shall comply with [Chapter 14.18](#), Parking Standards, of this title.

4. Noise. Residential units shall meet the residential noise standards in [Section 14.16.260](#), Noise standards, of this title.

5. Lighting. All exterior lighting shall be sufficient to establish a sense of well-being to the pedestrian and one that is sufficient to facilitate recognition of persons at a reasonable distance. Type and placement of lighting shall be to the satisfaction of the police department.

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The minimum of one foot-candle at ground level shall be provided in all exterior doorways and vehicle parking areas.

6. Refuse Storage and Location. An adequate refuse storage area shall be provided for the residential use.

7. Location of new residential units shall consider existing surrounding uses in order to minimize impacts from existing uses.

8. Boarding House. A boarding house shall comply with the following requirements:

- a. Provision of a management plan to ensure twenty-four (24) hour on-site management, security and any necessary social services;
- b. Provision of usable outdoor area consistent with the requirements of the district in which it is located.

9. Live/Work Quarters. The purpose of live/work quarters is to allow residential use in a commercial district with the intent of permitting people to live in a work environment. Live/work quarters are subject to the following requirements:

- a. Residents of live/work quarters are required to acknowledge, as part of their lease agreement, the commercial nature of the surrounding area.
- b. The FAR standards for the district shall establish the permitted intensity.
- c. The parking requirement shall be based on the number of spaces required for the nonresidential square footage, or as determined by parking study.
- d. All living areas must be suitable for residential purposes, as determined by the building inspector.
- e. At least one of the residents of a live/work quarters shall be required to have a city business license.
- f. The site is free of hazardous materials, as determined by the fire department.

**Section 8. Amendments to Chapter 14.18 – PARKING STANDARDS**

**Section 8.1. Amend Section 14.18.010 – Specific purposes, deleting subsection I and amending subsection H to read as follows:**

H. Acknowledge the unique conditions in the Downtown Mixed Use district, where there are a variety of land uses and parking facilities, including a Downtown parking district.

**Section 8.2. Amend Section 14.18.020 – Applicability to add new subsection D to read as follows:**

D. The provisions of this chapter are applicable to properties with the Downtown Mixed Use district except for provisions specific to: 1) parking requirements; 2) the Downtown parking district; and 3) parking lot screening and landscape standards. For these parking provisions, refer to the Downtown San Rafael Precise Plan Form-Based Code, which adopted by separate ordinance and incorporated herein by reference.

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**Section 8.3. Amend Section 14.18.040 – Parking requirements to read as follows:**

Section 14.18.040 – Parking requirements.

A. Off-street parking shall be provided in accord with the following chart. Where the specific use in question is not listed, the community development director shall determine if another similar use exists which may be used to select an appropriate parking standard. In order to make this determination, the community development director may require the submission of survey data from the applicant or collected by the community development department, planning division at the applicant's expense. Parking surveys conducted for this purpose shall be subject to the review and recommendation by the department of public works.

B. Parking Modification. The parking requirement for any specific use listed may be modified so as to provide adequate parking which is fair, equitable, logical and consistent with the intent of this chapter. Such modification may also include reduction in parking ratios for businesses in the Downtown zoning districts that allow the use of private parking facilities to be used for public parking during evening or weekend hours. Parking modifications shall require an application for a use permit and shall be subject to review by the community development director and public works director, and approval by the zoning administrator.

C. For properties located within the Downtown Mixed Use district and Downtown parking district, refer to the Downtown San Rafael Precise Plan Form-Based Code for off-street parking standards, which is adopted by separate ordinance and incorporated herein by reference

D. In addition to the off-street parking requirements listed below, off-street loading and unloading shall be provided for certain uses in accord with [Section 14.18.050](#), Off-street loading and unloading.

E. Off-street parking is not required for FAR increases up to ten percent (10%) of the building or seven hundred fifty (750) square feet, whichever is larger, as granted under [Section 14.16.150](#)(G)(1)(b).

F. Operation. As specified in the Downtown San Rafael Precise Plan Form-Based Code adopted by separate ordinance, parking in the Downtown Mixed Use district may be operated to serve the uses for which the parking was approved, or may be shared with other uses in the Downtown Mixed Use zoning district, and/or be made available to the public, subject to a use permit for parking modifications.

**Table [14.18.040](#)**

Use Classification	Off-Street Parking Required
<b>Residential</b>	

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Use Classification	Off-Street Parking Required
Single-family residential	2 covered spaces per unit.
Single-family residential, hillside	On streets less than 26 feet wide, a minimum of two additional on-site parking spaces shall be provided (not on the driveway apron) per unit. These spaces should be conveniently placed relative to the dwelling unit which they serve. This requirement may be waived or reduced by the hearing body when the size or shape of the lot or the need for excessive grading or tree removal make the requirement infeasible.
Studios (multifamily unit)	1 covered space per unit.
Studio (duplex unit), 500 sq. ft. or less in size	1 space per unit
Studio (duplex unit), Greater than 500 sq. ft.	1.5 spaces per unit (including 1 covered space).
1 bedroom unit	1.5 spaces per unit (including 1 covered space).
Two-bedroom units	2 spaces (1 covered)
Three or more bedroom units	2 spaces per unit (including 1 covered space).
Guest parking, multifamily	1 space per 5 units.
Mobilehome parks	2 covered spaces per unit.
Senior housing projects	.75 space per unit, or as specified by use permit.

Use Classification	Off-Street Parking Required
<b>Emergency shelters for the homeless, permanent:</b>	
Residential district	1 space for each employee on maximum staffed shift plus 1 space per five beds:
1—5 beds	1 space plus staff parking.

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Use Classification	Off-Street Parking Required
6—10 beds	2 spaces plus staff parking.
11—15 beds	3 spaces plus staff parking.
Commercial and light industrial/office districts	1 space for each employee on maximum staffed shift plus 1 space per 10 beds:
1—10 beds	1 space plus staff parking.
11—20 beds	2 spaces plus staff parking.
<u>21</u> —30 beds	3 spaces plus staff parking.
Emergency shelters for the homeless, temporary or rotating	As specified by use permit.
Emergency shelters serving children and/or families with children	1 space per family based on maximum program capacity plus 1 space per employee on the maximum staffed shift.
<b>Residential care facilities for the non-handicapped:</b>	
Small (0—6 clients)	See single-family residential.
Large (6—10 clients)	1 space for each five clients plus 1 space for each staff person, visiting doctor or employee on maximum staffed shift.
Rooming or boarding houses	1 space for each guest room or as determined by parking study.
<b>Second dwelling units:</b>	
Studio or one-bedroom unit	1 space.
Two or more bedroom unit	2 spaces.
<b>Visitor accommodations</b>	
Bed and breakfast inns	2 spaces plus 1 space per bedroom.

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Use Classification	Off-Street Parking Required
Hotels or motels	1 space per sleeping room plus 1 space for manager plus 1 space for every 2 employees.
Hotels, convention or hotels with banquet, restaurant or meeting facilities, etc.	Parking in addition to the hotel requirement is required, as determined by a parking study. Parking requirement as specified in use permit.
<b>Day care</b>	
Family day care home (small)	No requirement.
Family day care home (large)	Minimum 2 spaces. The required parking for the dwelling unit shall count as the required parking for family day care.
Day care center	1 space per five children. In addition, one of the following must be provided as recommended by the public works director for safety purposes: 1) A posted "loading zone" for dropping-off and picking-up children; 2) A loop driveway with an apron for drop-offs and pick-ups.
<b>General commercial uses</b>	
Retail sales (non-bulky items)	1 space per 250 gross building sq. ft.
Retail sales (bulky items, such as machinery, furniture, vehicles, etc.)	1 space per 400 gross building sq. ft.
Shopping centers	1 space per 250 gross building sq. ft.
Animal care facilities	1 space per 300 gross building sq. ft.
Food and beverage service establishments, excluding fast food restaurants	1 space for each 50 sq. ft. of floor area intended for public use.
Fast food restaurants	1 space per 100 sq. ft. for 50 percent of the gross building sq. ft.; and one space per 65 sq. ft. for 50 percent of the gross building sq. ft. or one space per 2.5 interior seats, whichever is greater.
Funeral and interment services	1 per each 35 sq. ft. of floor area for assembly rooms plus 1 space for each employee, plus 1 space for each car owned by such establishment.



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Use Classification	Off-Street Parking Required
<b>Motor vehicle sales and service:</b>	
Coin-op washing	1 space at each washing stall and vacuum stall.
Gasoline stations	3 spaces per station, plus.
With minor repairs such as tune-ups, brakes, batteries, tires, mufflers	2 spaces per service bay.
With mini-market area	1 space per 250 sq. ft. of gross retail.
Rentals	1 space per 500 gross sq. ft. of floor area plus 1 space per 1,000 sq. ft. of outdoor rental storage area.
Repairs, major and/or minor	1 space per 500 sq. ft. or 3 spaces per service bay (each service bay may count as one of the parking spaces), whichever is greater.
Sales, new or used vehicles	1 space per 400 gross building sq. ft. excluding auto repair area; plus, for repair portions of the building: 1 space per 500 gross building sq. ft., or 3 spaces per service bay for automobile repair (each service bay may count as one of the parking spaces), whichever is greater, or 1 space per 2,000 sq. ft. open lot area, whichever is greater.
Music rehearsal/recording studios	1 space per 500 gross building sq. ft.
Personal service establishments	1 space per 250 gross building sq. ft.
Barber/beauty shop/nail salon	2 spaces per chair or workstation.
Dry cleaning establishment	2 spaces plus 1 space for each employee.
Laundry (self service)	1 space for each 2 washing machines and/or dry cleaning machines.
<b>Recreation facilities (indoors)</b>	

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Use Classification	Off-Street Parking Required
Bowling alleys	4 spaces for each bowling lane plus additional spaces for other uses.
Game arcades	1 space for each 5 coin-operated amusement devices.
Health clubs and gymnasiums	1 space per 250 sq. ft. of gross building sq. ft.
Poolhalls/billiards	2 spaces for each table or as determined through a parking study.
Theaters	Parking study required. Parking subject to the approval of the community development director or the hearing review body for the development.
<b>Offices and related uses</b>	
Financial services and institutions	1 space for each 200 sq. ft. gross building sq. ft.
<b>Medical services:</b>	
Clinics	1 space per 225 gross building sq. ft.
Hospitals	Parking study required.
Major medical facilities, including extended care facilities	Parking study required.
Offices, excluding mental health practitioners	1 space per 225 gross building sq. ft.
Offices, mental health practitioners	1 space per 250 gross building sq. ft.
Administrative, business and professional offices	1 space per 250 gross building sq. ft.
<b>Industrial</b>	
Industrial uses	1 space per 500 gross building sq. ft.
<b>Light industrial/office mixed-use:</b>	

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Use Classification	Off-Street Parking Required
Light industrial sq. ft. of building	1 space per 500 gross building sq. ft.
Office sq. ft. of building	1 space per 250 gross building sq. ft.
Mini-storage	Parking study required. Subject to approval by the community development director or hearing review body for the development
Public utility facilities	Parking study required. Subject to approval by the community development director or hearing review body for the development.
Storage, warehousing and distribution	1 space per 500 gross building sq. ft.
Wholesale and distribution	1 space per 500 sq. ft. gross building sq. ft.
Cannabis testing/lab, cannabis infused products, cannabis delivery and cannabis distribution	1 space per 500 gross building sq. ft.
Marinas	3 spaces for every 4 boat slips. Plus parking for support uses in the marina, such as restaurants or retail uses.
<b>Public/quasi-public uses</b>	
Libraries, museums and other cultural facilities	Parking study required. Subject to approval by the community development director or hearing review body for the development.
Public service and utility	Parking study required. Subject to approval by the community development director or hearing review body for the development.
Religious institutions	1 space per 4 seats.
<b>Schools (Note: The following are guidelines for public schools)</b>	
<b>Parochial, private</b>	
K—8	3 spaces per classroom or 1 space per 100 sq. ft. of auditorium space, whichever is greater.

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Use Classification	Off-Street Parking Required
9—12	1 space for each 4 students based on maximum school capacity, or as specified by use permit.
Vocational, business trade schools	1 space per 150 gross building sq. ft.
Performing arts or other	1 space per 250 gross building sq. ft.
<b>Transportation facilities</b>	
Bus stations, park and ride facilities, public transit stations	Parking study required. Subject to approval by the community development director or hearing review body for the development.

**Section 8.4. Amend Section 14.18.050 – Off-street loading and unloading, subsection F to read as follows:**

F. In the Downtown Mixed Use district, on lots less than ten thousand (10,000) square feet, and where a parking lot is provided, the loading area may be incorporated into an aisle or backup area; provided, that there is adequate backup space for required parking spaces as determined by the traffic engineer.

**Section 8.5. Amend Section 14.18.060 – Downtown parking district to read as follows:**

Section 14.18.060 – Downtown parking district.

The Downtown parking district boundaries shall be as defined by the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. Parking for nonresidential uses in the Downtown parking district shall be provided consistent with the following:

A. The off-street parking requirement is waived for up to 1.0 FAR of the total square footage of buildings located within the Downtown parking district.

B. Off-street parking for building square footage above 1.0 FAR and for all residential uses shall be provided consistent with the parking requirements the Downtown San Rafael Precise Plan Form-Based Code.

**Section 8.6. Repeal Section 14.18.061 – Downtown’s west end and environs.**

**Section 8.7. Amend Section 14.18.120 – Tandem parking subsection E to read as follows:**

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E. Within the Downtown Mixed Use district, when the tandem parking spaces are assigned to a single residential unit or where the tandem spaces are assigned to a single tenant subject to exception permit as outlined under Section 14.24.020.G.3.

**Section 8.8. Amend Section 14.18.160 – Parking lot screening and landscaping to read as follows:**

14.18.160 – Parking lot screening and landscaping.

New or substantially renovated parking lots with more than five (5) spaces shall provide landscaping in accordance with the following standards. Substantially renovated parking lots shall be those for which paving material and curbing is removed and the resulting lot is reconfigured. With the exception of sub-sections F, G, H, I, and J below, the provisions of this section do not apply to properties within the Downtown Mixed Use district. The Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance includes provisions and requirements for parking lot screening and landscaping.

The following provisions shall also be used as guidelines for parking lot improvements on remodel projects.

A. Screening. Parking areas visible from the public right-of-way shall be screened to headlight height through the use of landscaped earth berms, low walls, fences, hedges, or combination thereof, with trees and plantings, or similar means. Fences, walls, and hedges need not be solid.

B. Minimum trees. A minimum of one (1) canopy tree shall be provided for every four (4) parking spaces. Trees shall be distributed throughout the parking area to shade cars and paved areas. Clustering of trees may be considered subject to approval of the decision-making body, where it is demonstrated that the intent will be met to provide ample shading and screening of parking areas and enhance the visual appearance of parking lots. In downtown, this section does not apply to parking lots for twenty (20) or fewer cars, and the standards in this section may be reduced for parking lots for twenty-one (21) to forty (40) cars, subject to recommendation by the design review board and approval of a minor design review permit.

C. Tree Selection and Distribution. Parking lot trees shall be selected and located to achieve maximum shading of paved surfaces, through utilization of the following techniques:

1. Distribute trees uniformly throughout parking areas, incorporating use of regularly spaced finger islands (see illustration below) and landscape medians between parking rows to the extent practicable.
2. Cluster trees on southerly and westerly perimeters of parking lots.
3. Provide minimum tree canopy diameters of fifteen feet (15') and include tree species with large canopy diameters, e.g., greater than thirty feet (30').

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4. Increase tree planting ratios as necessary to provide equivalent canopy coverage of the site where less than half of the required trees are proposed as large canopy tree species.

D. Minimum Size of Planting Areas and Tree Wells. Planting areas containing trees and tree wells shall have a minimum area of thirty-six (36) square feet and a minimum interior width of six feet (6'), exclusive of curbs. For large canopy tree species, tree wells shall have a minimum area of sixty-four (64) square feet and a minimum width of eight feet (8') exclusive of curbs, to the extent this larger planting area is practicable and can be accommodated on-site.

E. Curbs and Wheel Stops. A maximum overhang of two feet (2') shall be allowed for overhang of vehicles into planting areas. All planters and sidewalks located adjacent to driveways, loading areas, or parking lots shall be protected along the parking lot side with concrete curbs or wheel stops. Alternative treatments may be considered, subject to the approval of the community development director (or the director's designated appointee) or the appropriate hearing review body.

F. Irrigation. Permanent, automatic irrigation systems shall be provided for all planted areas, in compliance with [Section 14.16.370](#) Water-Efficient Landscape.

G. Soil Preparation and Verification. Planting areas and tree wells shall be prepared by excavation to a minimum depth of three feet (3'), scarifying sides of tree wells (to promote soils integration, water absorption and healthy root growth), amendment of soil (as recommended based on soils analysis), and compaction to no more than seventy-five percent (75%) within twelve inches (12") of a curb or sidewalk. For parking lots containing twenty-five (25) spaces or more a licensed landscape architect shall monitor tree well excavation, soil preparation and tree planting and provide written verification to the community development director that excavation, soil preparation and tree planting have complied with the standards established by this subsection to promote normal healthy tree growth. Such written verification shall be received by the community development director prior to use of the parking facility and/or occupancy of the use.

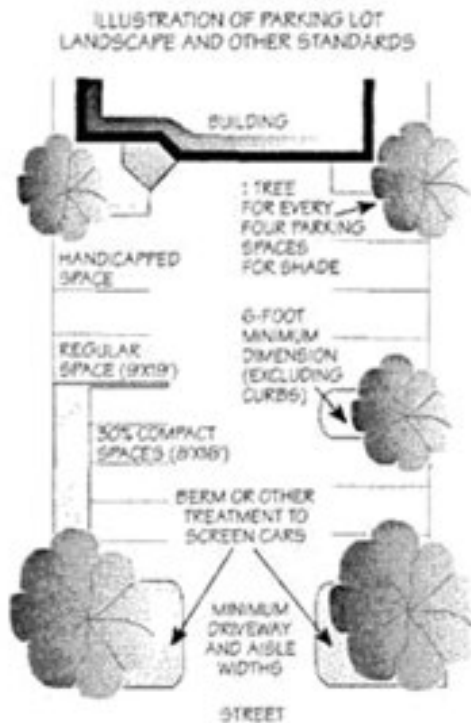
H. Maintenance. Landscaped areas associated with parking lots shall at all times be maintained in a healthy and clean condition, with replanting as necessary to maintain compliance with the previously approved landscape plan. For parking lots containing twenty-five (25) spaces or more the property owner shall obtain a minimum one (1) year maintenance contract and warranty for tree growth and provide documentation of such to the community development director prior to use of the parking facility and/or building or site occupancy.

I. Parking Structures. The top level of parking structures shall utilize light-colored/high albedo paving material (reflectance of at least 0.3), or utilize shade structures, photovoltaic carports, landscaped trellises, or trees to achieve at least fifty percent (50%) daytime shading.

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J. Bio-filtration. Persons owning or operating a parking lot, gas station, area of pavement or similar facility developed with hardscape surfaces shall undertake all practicable measures to minimize discharge of pollutants to the city storm drain, in compliance with city standards, including utilization of all best management practices and the requirements of San Rafael Municipal Code [Title 9.30](#) (Urban Runoff) enforced by the department of public works. To facilitate compliance with city storm drain pollution discharge requirements, innovative landscape design concepts may be substituted for the above standards subject to the approval of the appropriate review body, including use of permeable pavers, bio-swales, at grade curbs and openings in curbs to allow filtration of runoff through landscape areas. Landscape plans and alternative measures shall subject to compliance with any recommendations of the department of public works.

Illustration [14.18.160](#)



**Section 9. Amendments to Chapter 14.19 – SIGNS**

**Section 9.1. Amend Section 14.19.053 – Location, placement and design of signs, subsection I. – Placement and Design of Projecting Blade Signs to read:**

- I. Placement and Design of Projecting and Blade Signs. The location and placement of projecting and blade signs shall be subject to the following provisions:

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1. The maximum permitted sign area for a projecting sign shall be thirty-six (36) square feet, except in the Downtown Mixed Use districts. In the Downtown Mixed Use districts, a projecting sign shall not exceed five (5) square feet in area.
2. A minimum vertical clearance of eight feet (8') above the sidewalk, path, public property, public right-of-way or easement shall be maintained.
3. Signs shall be placed at or below the sill of the second floor windows in a multi-story building or below the eave line of a single-story building. Projecting signs shall be permitted for a ground floor business or use only.
4. Signs shall not project more than a distance of six feet (6') from the building face, including all structural members. In no case shall the sign project closer than two feet (2') from the street curb.
5. Signs shall be placed to maintain appropriate sight distance.
6. When projecting and blade signs are illuminated, the conduit and wiring that provides the source of illumination shall be concealed or screened, to the extent feasible.
7. To avoid visual clutter, a minimum distance of fifteen feet (15') shall be maintained between projecting and blade signs that are located on the same property. This provision does not apply in the Downtown Mixed Use districts.

**Section 9.2. Amend Section 14.19.065 – Downtown districts to read as follows:**

14.19.065 - Downtown Mixed Use districts.

Size, placement and design of signs in the Downtown Mixed Use districts are intended for view primarily by pedestrians and persons in vehicles nearby at the street level, not from long distances. The unique characteristics found in the Downtown Mixed Use districts include a higher density of business uses, and multiple ground floor business uses, which substantiate special sign provisions. Signs located in the Downtown Mixed Use districts shall be subject to the following provisions:

- A. Permitted sign area shall be based on frontage width of a business or use, per the provisions of Sections [14.19.064\(A\)](#) through (E) and [14.19.064\(G\)](#).
- B. For all non-residential uses except office use, a maximum of three (3) signs shall be permitted per frontage for each business or use, which may be a combination of sign types. For office uses in the Downtown Mixed Use district, a maximum of one sign shall be permitted per frontage for each business or use.

**Section 9.3. Amend Table 14.19-2 – Sign Regulations for Zoning Districts, Downtown Districts to read:**



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**Table 14.19-2**  
**Sign Regulations for Zoning Districts**

Zoning District	Permitted Sign Type	Permitted Number of Signs	Maximum Sign Area**	Maximum Sign Height (freestanding)	Permitted Illumination
Single-Family Residential & Duplex Residential Districts	Wall [permitted uses, see <a href="#">Section 14.19.062(A)</a> ]	One (1) per residence	Five (5) square feet	NA	No illumination+
	Monument [subdivision or neighborhood sign]	Two (2) per entrance	Twenty (20) square feet (per sign)	Six feet (6')	External illumination only+
	Wall, Monument, Directory, Changeable Copy [uses subject to approval of a Conditional Use Permit, see <a href="#">Section 14.19.062(B)</a> ].	One (1) per site	Twenty (20) square feet	Six feet (6')	External illumination only+
Multiple-Family Residential Districts & Residential/Office Districts	Wall, Projecting/Blade, Awning, Monument, Directory, Changeable Copy	Two (2) per site	Multiple-Family Residential Districts: Twenty-five (25) square feet (e.g., building identification, rental & vacancy information)** Residential/Office Districts: Thirty-six (36) square feet**	Six feet (6')	External illumination only+
Commercial, Office, Industrial, Marine Related	Wall, Window, Projecting/Blade, Awning, Marquee, Mansard,	For nonresidential uses except office uses: Two (2) per	For nonresidential uses except office uses: One (1) square	Six feet (6') for monument signs Twenty-one feet (21') for	External illumination, Internal illumination, Reflective

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Zoning District	Permitted Sign Type	Permitted Number of Signs	Maximum Sign Area**	Maximum Sign Height (freestanding)	Permitted Illumination
Districts (NC, GC, O, C/O, FBWC, LI/O, I, CCI/O, M and MC)	Monument, Directory, Changeable Copy and Pole/Pylon signs	frontage of business or use**	foot for each linear foot of building width of business or use frontage** Minimum sign area of twenty-five (25) square feet. See <a href="#">14.19.064</a> .	pole/pylon signs Twenty-five feet (25') for freeway-oriented pole/pylon signs*	illumination and Neon
		For office uses:	For office uses:		
		One (1) per frontage of business**	One-half (½) square foot for each linear foot of building width of business frontage** Minimum sign area of fifteen (15) square feet. See <a href="#">14.19.064</a> .		
Downtown Mixed Use Districts	Wall, Window, Projecting/ Blade, Awning, Marquee, Mansard, Monument, Directory, Changeable Copy and Pole/Pylon sign.	Three (3) per frontage of business or use, except for office use (1 max)**	Same as permitted in the Commercial, Office, Industrial and Marine Related Districts.	Six feet (6') for monument signs Twenty-one feet (21') for pole/pylon signs	External illuminated, Internal illumination, Reflective illumination and Neon
	Second floor tenant: Window	Second floor tenant: One (1) per use.	Second floor tenant: Five (5) square feet	NA	No illumination permitted.
Other Districts	Compliance with standards and provisions of the zoning district that is most	Compliance with standards and provisions of	Compliance with standards and provisions of district most similar to the	Compliance with standards and provisions of	Compliance with standards and provisions of

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Zoning District	Permitted Sign Type	Permitted Number of Signs	Maximum Sign Area**	Maximum Sign Height (freestanding)	Permitted Illumination
	similar to the subject zoning district.	district most similar to the subject zoning district.	subject zoning district.	district most similar to the subject zoning district.	district most similar to the subject zoning district.

+ Exception: Internally illuminated and backlit illumination permitted for property and building address signs.

\* Freeway-oriented signs are permitted for businesses and properties, which directly face a frontage road that is both parallel to and generally level with Highways US 101 or I-580 (Table 14.19-1).

\*\* Unless, as noted, where more than one (1) sign is permitted for a business or use, the combined area of the signs shall not exceed the maximum permitted sign area (see [Section 14.19.061](#)).

Note: See Table 14.19-1 (Requirements and limitations for freestanding signs) and Section 14.19.053.L (Placement and design of freestanding signs) for additional requirements.

C. Projecting and marquee signs placed under a roof eave or awning are encouraged to provide pedestrian-oriented signage. Projecting signs shall not exceed five (5) square feet in area.

D. Second floor tenant window signs are permitted and shall not exceed one per business or use and five (5) square feet in area.

**Section 9.4. Amend Section 14.19.070 – Temporary signs, subsection G - Temporary, Portable A-frame Signs in the Downtown Districts to read:**

G. Temporary, Portable A-Frame Signs in the Downtown Mixed Use District. The location, placement and provisions for temporary, portable A-frame signs permitted in the Downtown Mixed Use districts shall be established by standards and subject to fees, as set forth by resolution of the city council from time to time.

**Section 10. Amendments to Chapter 14.25 – ENVIRONMENTAL AND DESIGN REVIEW PERMITS**

**Section 10.1. Amend Section 14.25.010 – Specific purposes by adding new subsection H to read as follows:**

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H. Ensure superior urban design and the protection of historic resources in the Downtown Mixed Use district, as stipulated in and promoted by the vision of the Downtown San Rafael Precise Plan and Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

**Section 10.2. Amend Section 14.25.040 – Improvements subject to review to read as follows:**

Section 14.25.040 – Improvements subject to review.

No improvement subject to environmental and design review shall hereafter be constructed, located, repaired, altered, expanded or thereafter maintained, except in accordance with a design approved as provided in this chapter. The following items shall be subject to environmental and design review permits, whether or not a building permit is required.

A. Major Physical Improvements.

1. For major projects located in the Downtown Mixed Use district, refer to the Downtown San Rafael Precise Plan and Form-Based Code which is adopted by separate ordinance.
2. New construction 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.
3. 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.
4. Major site design improvements, including but not limited to:

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- 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.
5. Development subject to review as a major physical improvement pursuant to any other provision of this title.
6. Mural signs painted on the exterior surface of a wall of an existing or new structure.
7. Wireless telecommunications facility, as prescribed under Section 14.16.360.B.
- B. Minor Physical Improvements.
1. For minor projects located in the Downtown Mixed Use district, refer to the Downtown San Rafael Precise Plan and Form-Based Code which is adopted by separate ordinance.
  2. New construction and modifications, including, but not limited to:
    - a. Any new residence or residential additions over five hundred (500) square feet in size, or any modification that increases the height of the roofline, when located on residential lots with average slopes of twenty-five percent (25%) or greater or located in the hillside resource residential and hillside residential general plan land use designations.
    - b. Any addition or modification that results in lifting the existing ground level floor of a residence to construct a new ground level floor (lift and fill) located on single-family or duplex residential lots (See Section 14.25.050.F.6. for design criteria).
    - c. Accessory structures, or additions or modifications to any residential structure located within one hundred (100) vertical feet of a ridgeline when such improvement increases the height of a roofline, or increases building scale and mass and is determined to be visible from off-site.

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- d. Additions to multifamily residential structures containing three (3) or more dwelling units, where the addition constitutes forty percent (40%) or less than the total square footage of the building.
  - e. New two-story single-family and duplex residential structures proposing an upper story level over five hundred (500) square feet in size (See Section 14.25.050.F.6. for design criteria).
  - f. Upper-story additions to single-family and duplex residential structures over five hundred (500) square feet in size (See Section 14.25.050.F.6. for design criteria).
  - g. Accessory structures on developed non-residential properties over one hundred twenty (120) square feet in size.
  - h. Accessory structures on developed multi-family residential properties over two hundred forty (240) square feet in size.
  - i. New construction or reconstruction of boat docking facilities,
  - j. Additions and alterations to existing nonresidential structures and/or additions to existing nonresidential structures where the addition is forty percent (40%) or less of the existing square footage and no greater than one thousand two hundred fifty (1,250) square feet. Based on the scope and potential impact of the change(s), the level of review may be decreased by the community development director.
  - k. Structures over the height limit, including flagpoles, aboveground utility distribution facilities, including communications towers and public water tanks, windmills, monuments, steeples, cupolas, and screens for mechanical equipment (chimneys are exempt).
  - l. Wireless communications facilities, as prescribed under Chapter 14.16.360.B.
3. Minor site design improvements, including, but not limited to:
- a. Cutting of more than fifty (50) cubic yards and less than one thousand (1,000) cubic yards per site per year, or fill more than fifty (50) cubic yards and less than two thousand (2,000) cubic yards per site per year. (Exempt: Where removal is being done in accordance with an approved and legally effective tentative and/or final subdivision map, and a legally effective building permit.) (Note: A use permit is also required where the principal use proposed is cutting or filling.)
  - b. Landscaping, exterior lighting, fencing, and retaining walls over four feet (4') high, proposed as part of a minor physical improvement subject to environmental and design review.
  - c. Landscape revisions determined to be minor revisions to an existing hillside residential, multifamily or nonresidential development, proposed as part of a minor physical improvement.
  - d. Parking and loading areas, including driveways, sidewalks and curb cuts, on a development subject to minor environmental and design review,
  - e. Commercial parking lots, including private parking and new parking locations for uses with insufficient parking.
  - f. Drive-Through Facilities. See [Section 14.16.110](#), Drive-through facilities, of this title, for regulations.

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- g. Signs for a development subject to environmental and design review. The sign permit application shall be reviewed for location, size and type of signs concurrently with the design review application. See [Chapter 14.19](#), Signs, of this title.
- 4. Development subject to review as a minor physical improvement pursuant to any other provision of this title.

C. Administrative Design Permits.

- 1. For projects located in the Downtown Mixed Use district that are subject to administrative design review, refer to the Downtown San Rafael Precise Plan and Form-Based Code which is adopted by separate ordinance.
- 2. Decks, or additions to existing decks, higher than thirty inches (30") above grade, located on residential lots with average slopes of twenty-five percent (25%) or greater or located in the hillside resource residential and hillside residential general plan land use designations, except no review is required for decks:
  - a. Less than a total of one hundred (100) square feet,
  - b. Not visible from the public street or adjacent properties, or
  - c. Replacing an existing elevated deck with a deck of same size and configuration.
- 3. New single-family residences located on a flag lot.
- 4. New one-story duplexes, or ground floor additions over five hundred (500) square feet in size or that include addition of a bedroom.
- 5. Conversion of a single-family residence to a duplex.
- 6. Design changes to projects that previously obtained design review approval. This includes modifications to upper story additions, modifications to windows or architectural, site design or landscaping changes. Based on the scope and potential impact of the change(s), the level of review may be increased by the community development director.
- 7. Outdoor eating areas (as prescribed by [Section 14.17.110](#)).
- 8. Minor exterior alterations to a structure or development, which are subject to environmental and design review, that, in the opinion of the community development director, have minimal impacts on the visual character or function of the building or development.
- 9. Satellite dishes over the height limit in a multifamily or nonresidential district.
- 10. Residential fences over seven feet (7') in height, and as set forth under the criteria in [Section 14.16.140](#).



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11. Nonresidential fencing over seven feet (7') in height as set forth under [Section 14.16.160](#) proposed to be located in a front yard or between the principal building and public street frontage(s).
12. Detached accessory structures located on hillside residential lots with slopes of twenty-five percent (25%) or greater or located in areas with a general plan land use designation of hillside residential or hillside resource residential.
13. Retaining walls over four feet (4') in height (measured from the top of the footing or finished grade, as determined by the community development director, to the top of the wall) and/or minor landscaping or grading modifications on properties located on a hillside lot as identified in [Section 14.12.020](#) (-H hillside overlay district) of this title, or located within one hundred (100) vertical feet of a ridgeline.
14. Minor landscaping revisions to existing or approved multifamily or nonresidential development that are determined to alter the character of the site.
15. Minor modifications to existing parking lots (reconfiguration or expansion).
16. Exterior repainting and refinishing on a development which significantly deviates from the color scheme and/or palette previously approved through an environmental and design review permit, or on structures in the hillside area as identified in [Section 14.12.020](#) of this title when the colors or materials are not from the approved earthtone-woodtone list.
17. Outdoor storage areas.
18. Design changes to dwelling units that were existing or approved as of January 1991 and that are being replaced pursuant to [Section 14.16.060](#) (conservation of dwelling units), or dwelling units that are being replaced pursuant to Section 14.16.270.B.5 (nonconforming structures) of this title.
19. Modifications to properties in the Eichler-Alliance (-EA) combining district which increase the height of roof structures by more than six inches (6") or change the roof pitch, including the creation of sloping roofs, covered atriums that exceed the existing roof height, clerestories or exposed exterior ducting, but excluding the review of solar collectors which are flush-mounted or not visible from the street frontage.
20. Rooftop equipment and screens visible from off-site.
21. Minor additions or modifications to a wireless communications facility, as prescribed under Section 14.16.360.B.
22. Residential accessory structures to be located between the front-facing wall of the primary structure and the front setback except as permitted by Section 14.16.020.E.
23. Non-residential accessory structure one hundred twenty (120) square feet or less in size.



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24. Ancillary detached accessory structures on a developed multi-family residential property two hundred forty (240) square feet or less in size.

25. Development subject to review for an administrative design permit pursuant to any other provision of this title.

D. Exempt from Design Review.

1. Single-family dwellings when sited on individual lots with frontage on a public street and not otherwise subject to design review as listed above.

2. Ordinary maintenance and repairs.

3. New decks or additions to decks, except where review is required for decks located in hillside areas as prescribed in Section 14.25.040.C, above.

4. Installation of solar panels on existing structures or grounds, as provided under state law and in compliance with all applicable development standards.

5. Public art installations on public or private property approved through a City-established public art program. For purposes of this section (14.25.040), "public art" is defined as all forms of art including, but not limited to: sculptures, murals, mosaics, and fountains, which are located on the exterior of a publicly owned facility or on a privately owned property when such artwork is placed in a location intended to be visible to the general public.

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

**Section 10.3. Amend Section 14.25.050 subsection B – Consistency with Specific Plans to read as follows:**

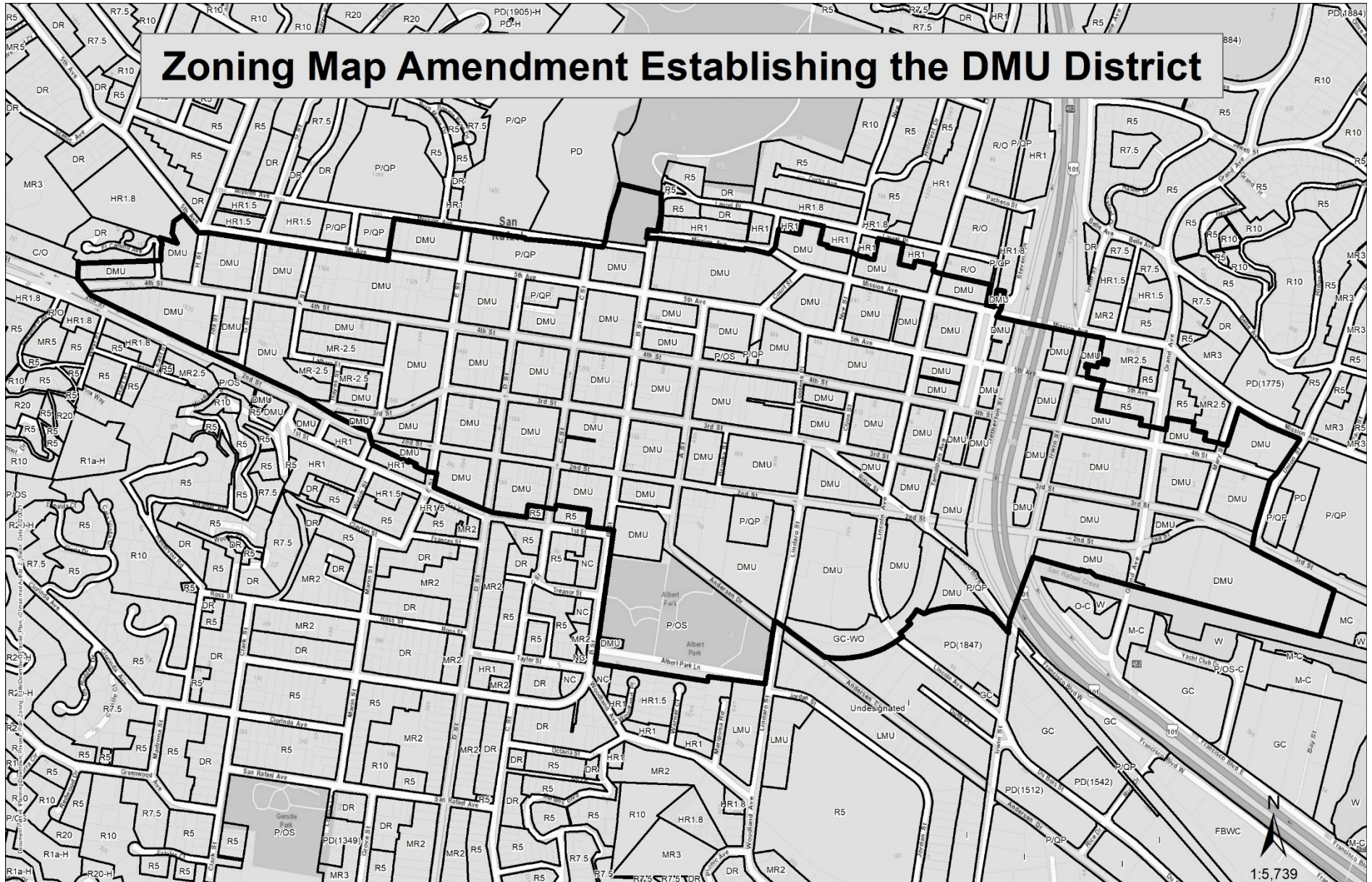
E. Consistency with Specific Plans.

1. In addition to the criteria listed below, development will be evaluated for consistency with applicable neighborhood and area design plans. Adopted plans which include design guidelines include: Hillside Residential Design Guidelines Manual, San Rafael Design Guidelines, the San Rafael General Plan 2040, specifically the neighborhoods element, and community design and preservation elements, and any design guidelines or amendments that are adopted by resolution.

2. Development proposed within the Downtown Mixed Use district shall comply with the design criteria and provisions set forth in the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. The criteria listed below shall apply where the Downtown San Rafael Precise Plan form-based code is silent on the specific criteria topic.

**EXHIBIT B**

**Amendments to the San Rafael Municipal Code Zoning Map to Rezone Real Properties from 4SRC, CMSU, HO, 2/3 MUE, 2/3 MUW, WEV and 5/M R/O Districts to  
Downtown Mixed Use (DMU) District  
ZC21-003**



**EXHIBIT C**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE, TITLE 14 REGARDING**  
**CANNABIS MANUFACTURING USE, LARGE FAMILY DAY CARE HOMES AND**  
**MISCELLANEOUS REGULATIONS**  
**May 21, 2021**

The following are amendments to the San Rafael Municipal Code, Title 14 (Zoning) to incorporate revisions and additions to the cannabis use regulations:

**Section 1. Amendments to Chapter 14.03 - DEFINITIONS**

**Section 1.1. Amend Section 14.03.030 – Definitions as follows:**

**DELETE** definition of “Cannabis infused products”

**ADD** a new definition for cannabis manufacturing to read as follows:

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

**Section 2. Amendments to Chapter 14.05 – COMMERCIAL AND OFFICE DISTRICTS (GC, NC, O, C/O, R/O, FBWC)**

**Section 2.1. Amend Table 14.05.040 to replace “cannabis infused products” with “cannabis manufacturing” and amend footnotes as shown below:**

Table [14.05.020](#)

Type of Land Use	GC	NC	O	C/O	R/O	FBWC*	Additional Use Regulations
<b>Commercial Uses</b>							
Cannabis Manufacturing							
Cannabis Distribution							
Card rooms							See <a href="#">Chapter 10.36</a>

- (1) Reserved.
- (2) Shall not be located within six hundred feet (600') from schools (public and private), as measured from the property lines of each parcel.
- (3) See [Section 14.17.100](#) (Residential uses in commercial districts).



**EXHIBIT C**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE, TITLE 14 REGARDING**  
**CANNABIS MANUFACTURING USE, LARGE FAMILY DAY CARE HOMES AND**  
**MISCELLANEOUS REGULATIONS**  
**May 21, 2021**

**Section 3. Amendments to Chapter 14.06 – INDUSTRIAL DISTRICTS (I, LI/O, CCI/O, LMU)**

**Section 3.1. Amend Table 14.05.040 to replace “cannabis infused products” with “cannabis manufacturing” and amend footnotes as follows:**

Table [14.06.020](#)

Types of Land Use	I	LI/O	CCI/O	LMU	Additional Use Regulations
<b>Cannabis Related Uses</b>					
Cannabis Testing/lab	P (1)	P (1)	P (1)		*Subject to additional regulations and permitting (See SRMC <a href="#">Chapter 10.96</a> )
Cannabis Delivery	P(1)	P(1)	P(1)		*Subject to additional regulations and permitting (See SRMC <a href="#">Chapter 10.96</a> )
Cannabis Manufacturing	P(1)	P(1)	P(1)		*Subject to additional regulations and permitting (See SRMC <a href="#">Chapter 10.96</a> )
Cannabis Distribution	P(1)	P(1)	P(1)		

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

**Section 4. Amendments to Chapter 14.17 – PERFORMANCE STANDARDS**

**Section 4.1. Repeal Section 14.17.040 – Family day care home for children.**

**Section 5. Amendments to Chapter 14.22 – USE PERMITS**

**Section 5.1. Amend Section 14.22.180 – Expiration to read as follows:**

**EXHIBIT C**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE, TITLE 14 REGARDING**  
**CANNABIS MANUFACTURING USE, LARGE FAMILY DAY CARE HOMES AND**  
**MISCELLANEOUS REGULATIONS**  
**May 21, 2021**

14.22.180 - Expiration.

Use permits are valid for two years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

**Section 6. Amendments to Chapter 14.23 – VARIANCES**

**Section 6.1. Amend Section 14.23.170 – Expiration to read as follows:**

14.23.170 - Expiration.

Variations are valid for two years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

**Section 7. Amendments to Chapter 14.24 - EXCEPTIONS**

**Section 7.1. Amend Section 14.24.150 – Expiration to read as follows:**

Section 14.24.150 – Expiration.

Exceptions are valid for two years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

**Section 8. Amendments to Chapter 14.25 – ENVIRONMENTAL AND DESIGN REVIEW PERMITS**

**Section 8.1. Amend Section 14.25.200 – Expiration to read as follows:**

Section 14.25.200- Expiration.

Environmental and design review permits are valid for two years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued or the permit is renewed or extended. If more than one phase of a development is approved in a single action and the

**EXHIBIT C**  
**AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE, TITLE 14 REGARDING**  
**CANNABIS MANUFACTURING USE, LARGE FAMILY DAY CARE HOMES AND**  
**MISCELLANEOUS REGULATIONS**  
**May 21, 2021**

later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

**Section 9. Amendments to Chapter 14.27 - AMENDMENTS**

**Section 9.1. Amend Section 14.27.010 – Specific purposes to read as follows:**

Section 14.27.010 – Specific purposes.

The purpose of this chapter is to establish procedures for amending the zoning map or zoning regulations whenever the public necessity, convenience or general welfare require such amendments. The amendment process is necessary to maintain consistency with the general plan and state law over time, to supplement zoning regulations, and to improve the effectiveness and clarity of the zoning ordinance. The provisions and procedures of this chapter are applicable to amendments to the Downtown San Rafael Precise Plan, form-based code and downtown zoning map, which are adopted by separate ordinance.

## SUMMARY ORDINANCE NO. 1996

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING TITLE 14 (ZONING ORDINANCE) AND AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO:**

- A) REPEAL THE EXISTING DOWNTOWN ZONING DISTRICTS, AND REPLACE WITH DOWNTOWN MIXED-USE (DMU) DISTRICT;**
- B) AMEND, DELETE AND REPLACE CERTAIN ZONING PROVISIONS APPLICABLE TO DOWNTOWN SAN RAFAEL; AND**
- C) AMEND, DELETE AND REPLACE OTHER ZONING REGULATIONS TO COMPLY WITH STATE LAW AND INCORPORATE OTHER MINOR CHANGES, CORRECTIONS AND UPDATES**

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1996, which will amend sections of the San Rafael Municipal Code Title 14 (Zoning). Ordinance No. 1996 is scheduled for adoption by the San Rafael City Council at its regular meeting of August 16, 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 various sections of San Rafael Municipal Code Title 14 (Zoning) to update it and to acknowledge, support and incorporate by reference the Downtown San Rafael Precise Plan and Form-Based Code, adopted by separate ordinance, as the governing zoning document for the Downtown. This ordinance repeals the existing downtown zoning districts and replaces those districts with a Downtown Mixed-Use (DMU) district; amends, deletes and replaces certain land uses, development standards and review procedures applicable to Downtown; and amends, deletes and replaces other zoning regulations to comply with state law and incorporate other minor changes, corrections and updates.

Copies of Ordinance No. 1996 will be available for public review as of Friday, August 6, 2021 at the San Rafael City Clerk's Office, 1400 Fifth Avenue, 2<sup>nd</sup> 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 Alicia Giudice, Community Development Director, at (415) 485-3092 or [Alicia.giudice@cityofsanrafael.org](mailto:Alicia.giudice@cityofsanrafael.org) for information.

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LINDSAY LARA  
San Rafael City Clerk  
Dated: 08/06/21

**Agenda Item No. 5.d**

**ORDINANCE NO. 1997**

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADOPTING THE  
DOWNTOWN SAN RAFAEL PRECISE PLAN – CHAPTER 9 DOWNTOWN FORM-BASED  
CODE TO SERVE AS THE PRIMARY REGULATORY CITY ZONING CODE FOR  
DOWNTOWN SAN RAFAEL  
(CASE NO. ZO21-004)**

**WHEREAS**, in 2004, the City adopted the San Rafael General Plan 2020 with a horizon year of 2020. In 2018, the City initiated a General Plan Update (General Plan 2040) to move the Plan’s horizon forward 20 years to 2040; and

**WHEREAS**, in late 2018, the City received a One Bay Area Grant to fund the preparation of a focused Plan for Downtown San Rafael, the Downtown San Rafael Precise Plan (Downtown Precise Plan), under the umbrella of the San Rafael General Plan 2040. The Downtown Precise Plan was budgeted and scoped to include a “form-based code” to regulate zoning for the Downtown Precise Plan area, replacing the existing property zoning and many of the existing zoning code regulations in San Rafael Municipal Code (SRMC) Title 14, Zoning (Zoning Ordinance) that are applicable to the Downtown area; and

**WHEREAS**, in Fall 2020, the City completed and released the Draft General Plan 2040 and the Downtown Precise Plan for public review. The Downtown Precise Plan includes Chapter 9 – Downtown Form-Based Code (Form-Based Code); and

**WHEREAS**, Chapter 9- Downtown Form-Based Code establishes four regulating zones exclusive to the Downtown Precise Plan area that are based on the transects of natural to urban form. Each form-based zone includes, among others, site and buildings standards and regulations, parking standards, and land use regulations; and

**WHEREAS**, to introduce, incorporate by reference, and establish internal consistency with the overarching, citywide Zoning Ordinance, amendments to SRMC Title 14 were drafted, which include the establishment of a new Downtown Mixed-Use (DMU) District. The DMU District serves as the foundation or “base” zone for Downtown that bridges the Zoning Ordinance with Chapter 9- Downtown Form-Based Code; and

**WHEREAS**, the Downtown Precise Plan Form-Based Code, together with the amendments to SRMC Title 14 – Zoning and Zoning Map (ZO-21-003 and ZC21-002) adopted by separate ordinance, establish the state-require zoning legislation for Downtown San Rafael within the boundaries of the DMU District; and

**WHEREAS**, per the provisions of the California Environmental Quality Act (CEQA), the City prepared a Final Environmental Impact Report (FEIR) to assess the environmental impacts of the San Rafael General Plan 2040 and the Downtown Precise Plan including the Form-Based Code. The FEIR has been certified by separate resolution of the City Council; and

**WHEREAS**, in considering action to adopt the Downtown Precise Plan form-based code, the City Council must first determine if the certified FEIR adequately assesses the environmental impacts of this action. The certified FEIR has concluded that the project, which includes the adoption of the Downtown Precise Plan will result in significant and unavoidable impacts associated with Air Quality, Cultural Resources, Greenhouse Gas Emissions, and Transportation. The City Council has weighed the proposed project benefits against the significant, unavoidable adverse environmental effects. By separate resolution and consistent with the CEQA Guidelines Section 15063, the City Council has approved the CEQA Statement of Findings of Fact and Statement of Overriding Considerations supporting and substantiating



## **Agenda Item No. 5.d**

adoption of the General Plan 2040, the Downtown Precise Plan, and the related amendments to SRMC Title 14 – Zoning. This separate resolution also approved a Mitigation Monitoring and Reporting Program (MMRP) to ensure that the required FEIR mitigation measures are incorporated into the project action; and

**WHEREAS**, on July 29, 2021, the Planning Commission of the City of San Rafael held a duly noticed public hearing on the proposed Downtown Precise Plan and Form-Based Code, accepting all public testimony and the written report of the Community Development Department. The Planning Commission approved Resolution No. 2021-06 recommending City Council adoption of the Downtown Precise Plan, conforming amendments to the San Rafael Municipal Code, and the Form-Based Code as the zoning regulation for Downtown San Rafael; and

**WHEREAS**, on August 2, 2021 by action of separate resolution, the City Council adopted the San Rafael General Plan 2040 and the Downtown Precise Plan; and

**WHEREAS**, on August 2, 2021 by separate ordinance, the City Council adopted amendments to the San Rafael Municipal Code (SRMC) Title 14 – Zoning (Case Nos. ZO21-003 and ZC21-002) to introduce, reference and incorporate the Downtown Precise Plan Form-Based Code by: a) establishing a new Downtown Mixed-Use (DMU) District that encompasses the boundaries of the Downtown Precise Plan area and serves as the base zoning and foundation for the Form-Based Code; b) amending, deleting and replacing certain zoning provisions applicable to Downtown San Rafael; and c) introducing new provisions to address and reference the Downtown Precise Plan Form-Based Code that is proposed to be adopted by this ordinance; and

**WHEREAS**, on August 2, 2021, the City Council held a duly noticed public hearing through a public notice published in the Marin Independent Journal. The Council considered the proposed Downtown Precise Plan Chapter 9 – Downtown Form-Based Code presented in attached Exhibit A, accepting all public testimony and the written report of the Community Development Department; and

**WHEREAS**, the City Council makes the following findings, pursuant to SRMC Section 14.27.060 to support the adoption of the Downtown Precise Plan Chapter 9- Downtown Form-Based Code presented in attached Exhibit A:

1. The adoption of the Form-Based Code together with the amendments to the Zoning Ordinance and Zoning Map adopted by separate ordinance (ZO21-003 and ZC21-002) are consistent with the policies and programs of the adopted San Rafael General Plan 2040 and Downtown Precise Plan in that:
  - a. The Form-Based Code presents development form regulations as well as use provisions that are consistent with the Downtown Mixed-Use land use category of the General Plan 2040 and the Downtown Mixed-Use (DMU) District. The Downtown Mixed-Use land use category and the DMU District: 1) call for allowing a mix of land uses at higher development intensities within the City; and 2) depart from the traditional residential density limits through use of building height limits and prescribed building form standards, and transition development allowances along the edges of Downtown. Lastly, the Form-Based Code would implement Land Use Element Program LU-2.1A, which recommends amending the Zoning Ordinance and Zoning Map to incorporate the policies and programs of the General Plan 2040, thus resulting in consistency between the General Plan and zoning.
  - b. The Form-Based Code would be consistent with Land Use Element, specifically Goal LU-1, Policy LU-1.10, Policy LU-1.17, Policy LU-1.18, Policy LU-2.2, and Program LU-2.2B in that it would: 1) support and respond to the Downtown Precise Plan which sets forth well-managed changes and growth for Downtown; 2) codify the recommendations of the Downtown Precise Plan specific to development intensity; 3) codify the building height and height bonus regulations and provisions presented in the Downtown Precise Plan; and 4) support and codify planned mixed-use development in Downtown. Further, the Form-Based Code would implement Policy LU-3.1 (Area

## **Agenda Item No. 5.d**

- Plans), which reinforces the preparation and adoption of community-based Area Plans (e.g., the Downtown Precise Plan) to direct planning and future growth for a specific area.
- c. The Form-Based Code would be consistent with the Neighborhood Element, specifically Policy NH-1.1, Program NH-1.1A, Policy NH-1.3, Policy NH-1.7, Program NH-1.7A, Policy NH-1.8 and Program NH-1.8A in that it would: 1) implement the Downtown Precise Plan by providing a clear guide for development and investment; 2) establish the zoning tool to support and guide the development of mixed-use and needed housing in Downtown; 3) ensure that new construction and development is sensitive to Downtown's context; and 4) provide measures to ensure the protection, preservation and enhancement of Downtown's historic resources.
  - d. Together with the accompanying amendments to SRMC Title 14 – Zoning (Case Nos. ZO21-003 and ZC21-002) adopted by separate ordinance, the form-based code would be consistent with the Community Design policies and programs of the Community Design and Preservation Element, specifically Program CDP-1.5C, Program CDP-2.1A, CDP-2.2A, Policy CDP-3.1, Program CDP-4.1C, Program CDP-4.2A, and Program CDP-4.8A in that they would: a) create a Downtown height profile; b) codify design standards for the “place types” identified in the Downtown Precise Plan; c) adopt a zoning tool that implements the design recommendations of the Downtown Precise Plan; and d) introduce building step-backs as a tool for implementing scale transitions in new development.
  - e. Together with the accompanying amendments to SRMC Title 14 – Zoning (Case Nos. ZO21-003 and ZC21-002) adopted by separate ordinance, the Form-Based Code would be consistent with the Historic Resources policies and programs of the Community Design and Preservation Element, specifically, Policy CDP-5.2, Policy CDP-5.4, in that they would: a) include the adoption of an updated historic resources inventory for Downtown; and b) incorporate incentives for encouraging preservation and stewardship of the Downtown historic resources.
  - f. The Form-Based Code would create consistency with the provisions and regulations of SRMC Title 14 - Zoning provisions, which have been adopted by separate ordinance and incorporated herein by reference.
  - g. The Form-Based Code would be anchored by a newly established DMU District to blanket the Downtown Precise Plan area. The DMU District provides a base zoning and foundation for the Downtown Precise Plan area and Form-Based Code and the other accompanying amendments.
2. The public health, safety and general welfare are served by adoption of the Downtown Precise Plan Chapter 9- Downtown Form-Based Code in that it would:
- a. Establish standards and regulations on building height and bulk to promote a more urban scale for growth of commerce and housing, while protecting the character and scale of the contiguous neighborhoods and surrounding community.
  - b. Establish standards and regulations that would protect San Rafael's historic resources.
  - c. Establish standards and regulations to promote safe and efficient multi-modal travel.
  - d. Establish standards and regulations that would promote orderly growth and facilitate the development of needed housing in Downtown San Rafael.
  - e. Establish consistency with the General Plan 2040 and the policies of the Downtown Precise Plan.

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

### **DIVISION 1. Findings**

The City Council hereby determines and finds that all of the facts and statements contained in the recitals herein, and the findings of Planning Commission Resolution No. 2021-06 adopted June 29, 2021 recommending to the City Council adoption of this Ordinance, are true and correct.

**Agenda Item No. 5.d**

**DIVISION 2. Approval**

The City Council hereby approves and adopts the Downtown San Rafael Precise Plan Chapter 9 – Downtown Form-Based Code as presented in Exhibit A, attached hereto and incorporated herein by reference. Exhibit A will be updated as necessary to include the finally approved documents, inclusive of any changes made prior to adoption.

**DIVISION 3. Publication**

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 those 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, Marin County, 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 or against the Ordinance.

  
\_\_\_\_\_  
KATE COLIN, Mayor

ATTEST:

  
\_\_\_\_\_  
LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1997 was read and introduced at a regular meeting of the City Council of the City of San Rafael on Monday, August 2, 2021 and was ordered passed to print by the following vote, to wit:

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

NOES: Councilmembers: None

ABSTAIN: 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 16<sup>th</sup> day of August 2021.

  
\_\_\_\_\_  
LINDSAY LARA, City Clerk

Exhibit:

A. [Downtown Form Based Code](#) (hyperlink)

**SUMMARY ORDINANCE NO. 1997**

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADOPTING THE  
DOWNTOWN SAN RAFAEL PRECISE PLAN – CHAPTER 9 DOWNTOWN FORM-BASED  
CODE TO SERVE AS THE PRIMARY REGULATORY CITY ZONING CODE FOR  
DOWNTOWN SAN RAFAEL**

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1997, which will amend the San Rafael Municipal Code Title 14 (Zoning). Ordinance No. 1997 is scheduled for adoption by the San Rafael City Council at its regular meeting of August 16, 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 adopts Chapter 9 -- Downtown Form-Based Code, of the City of San Rafael's adopted Downtown San Rafael Precise Plan to serve as the primary regulatory city zoning code for the Downtown Mixed Use (DMU) District. The Downtown Form-Based Code establishes allowable land uses, development standards and review procedures and review criteria for uses and development in the DMU Zoning District.

Copies of Ordinance No. 1997 will be available for public review as of Friday, August 6, 2021 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 Alicia Giudice, Community Development Director, at (415) 485-3092 or [Alicia.giudice@cityofsanrafael.org](mailto:Alicia.giudice@cityofsanrafael.org) for information.

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LINDSAY LARA  
San Rafael City Clerk  
Dated: 08/06/21




**Agenda Item No: 5.e**  
**Meeting Date: August 16, 2021**

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

**Department: Library and Recreation**

**Prepared by: Steve Mason,**  
**Senior Recreation Supervisor**

**City Manager Approval:** \_\_\_\_\_ 

**TOPIC: ALBERT J. BORO COMMUNITY CENTER COMMUNITY USE POLICY**

**SUBJECT: RESOLUTION APPROVING THE UPDATED ALBERT J. BORO COMMUNITY CENTER COMMUNITY USE POLICY**

**RECOMMENDATION:**

Adopt a resolution approving the updated Albert J. Boro Community Center Community Use Policy.

**BACKGROUND:**

In 1997, the City Council first approved policy changes that allowed for increased community use of the Albert J. Boro Community Center (Community Center) for little or no charge. In 2005, the Pickleweed Advisory Committee (formerly the Pickleweed Advisory Board) reviewed the policy and recommended revisions to allow for balanced and equitable provision of space at the newly renovated Community Center. The updated Pickleweed Park Community Center Community Use Policy was approved by City Council in 2006 and is included as Attachment 2. The 2006 Community Use Policy laid out the priority by which the City allocates space at the Community Center as well as the guidelines for waiving fees through a Co-Sponsorship Program.

Through the Co-Sponsorship Program, non-profit organizations are able to apply to the City and the Pickleweed Advisory Committee (Advisory Committee) for a reduction or full waiver of rental fees at the Community Center and Pickleweed Park. This process has supported organizations in providing timely programs for Canal residents, while also saving the City of San Rafael administrative costs of providing similar programs in-house. The intent is that working together, the City, community-based organizations, and the community itself can create a web of supporting programs that ebbs and flows with current needs and trends to enrich Canal residents.

In addition to the co-sponsorship guidelines and the application process, the 2006 Community Use Policy also contained information on general facility rental policies, fees, and processes.

\_\_\_\_\_ **FOR CITY CLERK ONLY**

**File No.:** \_\_\_\_\_

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

**ANALYSIS:**

Given the Community Use Policy has not been updated since 2006, the time was right for staff to conduct a thorough review of the policy and to propose updates to better align with the current needs of the City and the community. Attachment 3 to this staff report is a proposed revised Albert J. Boro Community Center Community Use Policy that includes updates to the 2006 Community Use Policy. Outlined below are the primary areas in which staff are recommending changes. At their regular meeting on July 7, 2021, the Advisory Committee accepted the proposed Albert J. Boro Community Center Community Use Policy and supported staff recommendations. The Park and Recreation Commission reviewed the revised policy during their regular meeting on July 15, 2021, and recommended that the policy be approved by the City Council.

Usage Priority

The 2006 Community Use Policy sets out the usage priority for the Community Center as: 1. City Programs; 2. City Co-Sponsored Programs; and 3. Room Rentals, without any restrictions on days, times, or room types. However, in practice, the Advisory Committee has avoided allowing co-sponsored programs to access the multi-purpose room on Fridays, Saturdays, and Sundays, as those days are popular for large event rentals that are critical to the financial health of the Community Center and often serve members of the community. Staff are proposing that this restriction be formally adopted in the updated Community Use Policy.

Additionally, staff recommend the inclusion of regional and local emergency use as the top usage priority in the updated policy. The City has experienced an increased need to utilize community centers for charging stations, cooling and clean air centers, testing and vaccination sites, and more, over the past few years. This proposed policy would reflect that growing need.

Co-Sponsorship Application Process

Currently, the 2006 Community Use Policy states that co-sponsorship applications must be received no later than 45 days prior to the program start date. In practice, this has meant that organizations have been allowed to apply for co-sponsorship at any Advisory Committee meeting. While this approach provides flexibility for organizations in administering their programs, it also limits the Advisory Committee's ability to evaluate the program offerings of the Community Center in a holistic manner. By accepting applications on an ongoing basis, the Advisory Committee cannot easily identify programmatic gaps or areas where they may be receiving multiple applications to provide similar services to the same community. Additionally, those organizations that apply early are able to secure desirable dates and times, perhaps at the expense of those that apply later in the year.

To ensure that the Advisory Committee can effectively and fully evaluate its co-sponsorship program and that all organizations have an equal opportunity to apply for facility usage, City staff are proposing that the Advisory Committee review all applications on a semi-annual basis. Applications would be due by a specific date and the Advisory Committee would then have time to review and rank all applications, and decide to award a full waiver, a partial waiver, or deny the fee waiver. Staff, the Advisory Committee, and the Park and Recreation Commission, recommend establishing two application periods, one intended but not limited for summer programs (June – August) and a second intended but not limited for school year programs (September – May). Organizations could apply in between application periods providing they demonstrate the urgency of their application and explain why they were not able to apply during the standard timeframe.

This approach would both fulfill the desire to strengthen the application process and still provide seasonal opportunities for agencies to request support for their Canal neighborhood-serving programs.

An additional benefit of a semi-annual process is that the sponsorship becomes more meaningful to the applying organization and more like a formal grant process for the City.

Should a new co-sponsorship application process be adopted, staff recommends that it be implemented starting summer 2022.

**Co-Sponsorship Fee Waiver Amount**

Additionally, staff and the Pickleweed Advisory Committee recommend setting an annual dollar amount, based on the Albert J. Boro Community Center's non-profit fee rate, that the Committee is able to waive. While the current level of co-sponsorship can be absorbed by the Department and the City, there is a concern that if applications were to increase substantially, there is no established ceiling to protect the City's financial position. The goal of setting a maximum annual co-sponsorship amount is not to reduce the number of programs, but rather to ensure the ongoing fiscal sustainability of the Community Center as a whole.

Considering the City would like to continue to co-sponsor a similar number of programs as it currently does through the Pickleweed Advisory Committee, staff, supported by both the Pickleweed Advisory Committee and the Park and Recreation Commission, recommends setting an annual fee waiver limit of \$140,000 which would cover all recent co-sponsored programs. Historically, the co-sponsorship program has waived approximately \$120,000-\$130,000 per year. Of this amount, approximately \$50,000 has been allocated for "Kids Club," a robust, low-cost after school program for the Canal community, and \$15,000-\$20,000 has been allocated for the Kids Club summer camp program. There is a huge need for affordable youth programming in the Canal neighborhood and staff would encourage the Advisory Committee to continue to set aside a similar allocation for this type of program moving forward.

Staff also recommends that the approved annual fee waiver amount be adjusted an equal percentage with any future increase of the Community Center's non-profit rental rate.

**Rental Policies and Fee Schedules**

Staff is also recommending the removal of general Rental Policies and Rental Fee Schedules from the proposed Community Use Policy. Those items are already included in detail in the Department-wide Rental Reservation Policies and Regulations and the Ongoing Facility Rental Allocation Process, which were recently updated and implemented. If the guidelines are replicated across multiple policies, it will create challenges and process barriers to keeping all of the documents consistent and current.

**Application Documents**

Finally, staff recommends the removal of the application documents from the revised Community Use Policy. Similar to the Rental Policies, staff recommends that these documents be managed separately so that they can be more regularly updated by the Department to remain effective and contain current legal terminology.

**COMMUNITY OUTREACH:**

Co-sponsored program providers were invited to participate in both the Pickleweed Advisory Committee's review of the policy as well as the Park and Recreation Commission's review. The Pickleweed Advisory Committee provided direction on the co-sponsorship process and both the Advisory Committee and the Park and Recreation Commission recommend approval of the revised policy. No community opposition to the revisions was received.

**FISCAL IMPACT:**

Although not a direct expense to the City, waiving or reducing rental fees for co-sponsored programs restricts Albert J. Boro Community Center space and reduces the time available for potential revenue generating rentals and programs. The proposed policy also establishes a \$140,000 maximum fee waiver amount for the Co-Sponsorship program. If used in full, this maximum would be approximately \$10,000-\$20,000 more in fee waivers than previous years. However, many of the co-sponsored programs take place during times and in rooms that do not typically experience a high demand for paid rentals and the impact to revenue is not a direct one-to-one correlation.

**OPTIONS:**

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

1. Adopt resolution to approve the updated Albert J. Boro Community Center Community Use Policy, as proposed.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

**RECOMMENDED ACTION:**

Adopt a resolution approving the updated Albert J. Boro Community Center Community Use Policy.

**ATTACHMENTS:**

1. Resolution
2. 2006 Pickleweed Park Community Center Community Use Policies
3. Proposed Albert J. Boro Community Center Community Use Policy



## **RESOLUTION NO.**

### **RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL APPROVING THE UPDATED ALBERT J. BORO COMMUNITY CENTER COMMUNITY USE POLICY**

**WHEREAS**, in 1997, the City Council approved policy changes allowing for increased community use at the Albert J. Boro Community Center (formerly Pickleweed Park Community Center) for little or no charge; and

**WHEREAS**, in 2005, the Pickleweed Advisory Committee (formerly known as the Pickleweed Advisory Board) reviewed these community use policies and recommended revisions to allow for balanced and equitable provision of program space at the newly expanded community center; and

**WHEREAS**, in 2006, the City Council approved the update to the community use policies and procedures; and

**WHEREAS**, the policy created a more vital and inclusive community center by allowing valuable new programs and services to use the space, and included a co-sponsorship process allowing for full or partial fee waivers for facility use; and

**WHEREAS**, the City is desirous of continuing to utilize the community use policy to provide timely programs for Canal residents while also saving the City the administrative costs of providing similar programs; and

**WHEREAS**, in July 2021, the Pickleweed Advisory Committee reviewed proposed updates to the community use policy and recommended changes to the co-sponsorship process to allow for a more robust evaluation of the programs provided; and

**WHEREAS**, in July 2021, the proposed updated Albert J. Boro Community Center Community Use Policy was reviewed and approved by the Park and Recreation Commission; and

**WHEREAS**, the City Council has reviewed the updated Albert J. Boro Community Center Community Use Policy and the recommendations of staff and the Park and Recreation Commission for its approval;

**NOW, THEREFORE BE IT RESOLVED**, that the City Council hereby approves the updated Albert J. Boro Community Center Community Use Policy.

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 16<sup>th</sup> day of August 2021, by the following vote, to wit:

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

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**Lindsay Lara, City Clerk**



Pickleweed Park Community Center & Library  
San Rafael Community Services Department  
50 Canal Street  
San Rafael, CA 94901  
(415) 485-3077

# Community Use Policies

- Section 1 Usage Priority
- Section 2 Programming Guidelines
- Section 3 Rental Policies & Fees
- Section 4 Room Descriptions and Use Guidelines

# Section 1

## Usage Priority

### Definitions

- City Programs:** All programs and activities developed and maintained by San Rafael Community Services Department staff. Includes programs, activities and events.
- City Co-Sponsored Programs:** All programs, activities and/or events provided through a partnership, collaboration or other agreement with the San Rafael Community Services. All City Co-Sponsored programs will be required to complete a Community Use Agreement with San Rafael Community Services Department.
- Facility Rentals:** Private party rental usage of community center.

### Usage Priority

#### City Programs

- City Programs will have first priority usage of Community Center space. City programs are scheduled on a three times per year (seasonal) basis. (Fall/Winter, Spring & Summer)
- Previously scheduled activities will not be cancelled or relocated without permission from the scheduled group except in case of emergencies.
- In advance of the current season, established programs will not be bumped for other types of uses unless alternative times, dates and/or locations are provided.

#### City Co-Sponsored Programs

- City co-sponsored programs will have priority usage of Community Center space behind City programs. City co-sponsored programs are scheduled on a three times per year (seasonal) basis. (Fall/Winter, Spring & Summer)
- Previously scheduled activities will not be cancelled or relocated without permission from the scheduled group except in case of emergencies.
- Requests for facility use in advance of the current season will be considered and are subject to staff and advisory board review in order that a balance of programming be maintained at the Community Center among age groups and interests.
- In advance of the current season, established programs will not be cancelled for other types of uses unless alternative times, dates and/or locations are provided.
- All City co-sponsored programs must have an approved Community Use Agreement before any program/activity/event may begin.
- All City co-sponsored programs will be subject to all rules, regulations and procedures contained in the Community Use Agreement.

## Room Rentals

- Community Center room rentals have priority behind City-Sponsored and Co-Sponsored programs to the extent that they do not impact historical levels of seasonal programming. Rentals may be scheduled up to twelve months in advance.

## Section 2 Programming Guidelines

### City Programs

City Programs are coordinated by San Rafael Community Services Department staff. Programs/activities/events are advertised in the department's seasonal Activity Guide, the biannual Center newsletter and various press releases.

### City Co-Sponsored Program

It is the policy of the Community Services Department to consider co-sponsorship of programs, activities or events based on the established criteria listed below. A Co-sponsored program/activity/event may be established between the department and one or more groups or organizations. Co-sponsored programs/activities/events may receive a waiver of facility use fees of up to 100%, may be advertised through department marketing materials, and may receive approval for facility use for up to 12 months.

Applications will be considered prior to each program season, and all applications must be reviewed by the Pickleweed Park Advisory Board. Community Center programming is scheduled on a three times per year (seasonal) basis. (Spring, Summer & Fall/Winter). City Co-Sponsored Programs are further defined as follows:

- The program/activity/event must be open to all residents of San Rafael.
- The program/activity/event is of direct benefit to residents of San Rafael.
- The program/activity/event is low or no fee to participants.

Co-sponsored programs/activities/events are cooperatively arranged by the department and community groups and organizations. Co-Sponsored programs/activities/events may be advertised in the department's seasonal brochure, and/or biannual Center newsletter as space allows. A completed Community Outreach Plan must be submitted as part of the application process.

**Application Process:** Submission of a completed Co-Sponsored Use Agreement application must be received no later than 45 days prior to the start date of the proposed program/activity/event. To be considered for inclusion in department marketing materials, applications must be received no later than 90 days prior to the start of the upcoming season. All submissions will be reviewed by department staff. The following criteria will be considered:

1. The program/activity/event is within the scope of department's mission.
2. Availability of requested facility date/time.
3. The proposed programs/activities/event is available to all residents of San Rafael (special requirements may apply; minimum age, skill level, etc.).
4. The City will maintain a balance of programming to serve all age groups.

5. There shall be a current community interest in the proposed programs/activities/event.
6. Programs/activities/events that duplicate established offerings may be limited in number to reflect community need.
7. The number of community members likely to participate in proposed program/activity/event.
8. Impact of proposed program/activity/event on facilities and/or community.
9. If fees are charged for program/activity/event, on a separate sheet, please outline the following: Amount charged, type of charge (material fee, etc.) total program budget, scholarship policy.
10. The proposed program/activity/event will not be part of any private commercial enterprise of promotion thereof.

## **SECTION 3**

### **RENTAL POLICIES AND FEES**

Reservations will be accepted on a first come first served basis. To secure a date the following are required:

- A completed Rental Contract Application must be submitted, accompanied by the appropriate cleaning/damage deposit.
- The facility booking is confirmed only after Community Services Department approval. Upon approval you will receive a contract signed by a Department representative.

### **APPLICATION PROCESS FOR RENTAL**

1. Applications for facility use must be made in writing on forms provided by the Department.
2. As you plan for your event, be sure to consider the amount of time needed for the following:
  - a. Set-up and Decorations.
  - b. Deliveries \*.
  - c. Program.
  - d. Clean-up.
  - e. Plan to be present for deliveries. Deliveries and pick-up can only be made during the time for which your facility/room use is approved. The City cannot accommodate overnight storage of equipment and supplies.
  - f. Events must conclude no later than 10:00pm, Sun.–Thurs., and by 11:00pm Fri. & Sat.
3. A cleaning/damage deposit is due at time the initial reservation is made. The cleaning/damage deposit is separate from rental fees and is not be applied toward rental balance.

The cleaning/damage deposit is fully refundable except if the applicant cancels contract at any time. The reservation deposit shall be refunded, less 25%, if Community Services Department is able to rebook the date.

The cleaning/damage deposit refund will be reduced to cover any extra costs due to cleaning, damage to facility or grounds, overtime hours and additional equipment used during event. Additional charges may be required if damage exceeds security deposit amount.

Failure to pay rental fee balance forty-five (45) days prior to reservation date may result in cancellation of your event without refund.

4. Any applicable permits (Alcohol Sales Permit, etc.) are due to the Pickleweed office thirty-five (35) days prior to the event. Reservations that do not comply with these deadlines are subject to cancellation.

5. Applications will be confirmed and final when signed by authorized City staff, required fees are paid, and appropriate permits (if any) have been obtained.

6. All rentals are subject to staff approval. Approved reservations cannot be transferred, assigned or sublet. City reserves the right to deny any facility use request at the City's discretion.

7. The Center may have simultaneous rentals at any given time.

8. The person signing the application for private use or as an authorized representative of the sponsoring organization is responsible for assuring compliance with all City policies and payment of fees, charges, and deposits concerning the rental, and any permits needed. The person who signs the application must be in attendance at the rental event, and will be considered the *Person-in-Charge* of the event. All deposit refunds will be made to the *Person-in-Charge*. Deposit refunds can be made to the organization at the request of the applicant. To reduce the possibility of confusion, correspondence will be sent to the address listed on the application and all communication between the City and the applicant will be through the *Person-in-Charge* on the application.

## **REFUNDS AND CANCELLATIONS**

1. If notice of cancellation is given less than ten (10) working days before the scheduled event, the rental fee is forfeited. If cancellation occurs fourteen (14) or less days in advance of the event, 50 percent of rental fee is forfeited. If cancellation occurs forty-five (45) days or more in advance of the event, the 25% payment will be forfeited. In the event of cancellation by the City, all applicable deposit and rental fees will be refunded.

2. Inclement weather or emergency circumstances may cause late opening, early closure, and/or cancellation of classes, activities, and rentals. If the facility is closed due to hazardous conditions, rentals will be cancelled and all fees refunded or the event rescheduled at the next available date.

3. Rentals canceled due to violations of City policies forfeit all rental fees.

## **CONDITIONS OF RENTAL USE**

1. Rentals that extend beyond established rental hours of the facility incur an additional cost for hourly rental rates and staffing.

2. The *Person-in-Charge* must be present at all times during the rental, including set-up and clean-up.

3. A chaperone is required for every 15 youths under age 18 at a dance or social function. Chaperones must be at least 21 years of age. A list of chaperones may be requested before the event.

4. Children must be supervised at all times during your event. If behavioral problems arise, children and the adults responsible for their care may be asked to leave the facility.



5. Renter must be as accurate as possible when estimating attendance for the event. **The number of people allowed into the facility/room is limited to the capacity assigned to the space rented as specified by Fire Code.** Authorized City personnel may deny or close event if the number of people exceeds the original estimate. The City reserves the right to terminate any rental to protect public safety and/or City property. Refunds will not be made in this instance.

6. The use of tobacco and tobacco related products is prohibited within 50 feet of the Community Center. Violations may result in suspension from future use and/or forfeiture of cleaning deposit.

7. Be courteous and aware of sound impacts to other building users. Amplified live music or pre-recorded dance music may necessitate an exclusive building rental.

8. Applicants must comply with all the rules and regulations of the State Department of Alcoholic Beverage Control. Upon request, the Community Services Department will provide a letter to Alcoholic Beverage Control confirming facility use authorized by the City of San Rafael. If alcohol will be sold at the event, applicant must provide to the City a copy of the Alcoholic Beverage Control license 35 days prior to the event. Also, the City of San Rafael Alcohol Management Policy must be read, signed and adhered to by applicant. Alcohol must stay within the rented room only, and is not allowed in hallways, restrooms, lobby, lounge, or outside the building. The City reserves the right to terminate any rental if alcohol is not kept within designated area. Refunds will not be made in this instance.

## **INSURANCE**

1. All rentals are required to provide a Certificate of Insurance for liability for a minimum of \$1,000,000.
2. Certificate must include endorsements naming "City of San Rafael" as additional insured, and state that insurance will not be canceled without 30 days advance written notice to City.
3. Rental insurance certificates must be received by the Community Services Department 45 days prior to the event
4. Organizations/Individuals that have insurance through a parent organization may issue one proof of insurance which names "City of San Rafael" as an additional insured for a full year for all the organization's uses.
5. Insurance is available for purchase through Diversified Risk Insurance. Contact the Community Services Department office for procedure and rates.

## **SECURITY**

All major events will have application forwarded to San Rafael Police Department. Police Department will determine if security will be required for the event. Should security be required San Rafael Police officers and/or authorized security service must be retained at a cost to the applicant. Please contact Community Services Department for rates.

1. If an event involves alcohol, professional security may be required. Determination will be made by the building supervisor.



2. All arrangements and expenses for security will be borne by the renter.
3. Security shall be scheduled to arrive at the Pickleweed Park Community Center rental one-half hour before event starting time, and will leave one-half hour after event is concluded.

## CHECK-IN / CHECK-OUT

1. The renting party may occupy the facility **only** during the times listed on the rental agreement. If the facility is locked at the time your event is scheduled to begin, renter may call the Police non-emergency at 485-3000 for assistance.
2. Upon arrival on the day of the event, the Person-in-Charge should check in with the Facility Attendant and/or Front Desk.
3. Facility users are asked to return all areas used, inside and outside, to the condition in which they were found. Any staff costs involved in extra clean-up will be deducted from the cleaning/damage deposit. Responsibilities of the Person-In-Charge are:
  - a. Deposit all bottles, cans, cups, paper products, and other refuse in proper receptacles.
  - b. Wipe off sinks and table tops.
  - c. (If applicable) Clean kitchen; e.g., wipe up spills, clean range tops, remove food from storage, refrigerator, etc.
  - d. Sweep and mop floors, as necessary.
  - e. Clean restrooms(?)
  - f. Remove and dispose of any decorations brought into the facility/room as part of the rental.
  - e..Check that all windows and doors are firmly secured. Doors should be physically closed shut to make sure that they have latched.
  - f. Clean and return tables and chairs to their proper storage.
  - g. Check that the facility/room is left in the condition found upon your arrival.
  - h. Sign Check-Out Form with Facility Attendant.
  - e. All event guests have safely exited the building.

## EVENT SET-UP

1. City-owned equipment and furniture may not be removed from the Community Center. Any non-City equipment to be brought in (wedding arches, decorative lamp posts, cocktail tables, etc.) must be approved by authorized Community Center staff. All non-City equipment is the applicant's responsibility and expense.
2. Please do not drag tables, chairs, or other objects across floors as damage could occur.

3. Due to limited space, storage will not be provided for Community Center rentals. All equipment, supplies, food stuffs, and decorations brought in by rentals must be removed by the renter by the end of the rental time.

4. To provide a safe, attractive building, the following regulations are necessary:

a. All decorations must comply with the City's fire regulations. Any open flame (such as candles) is not allowed.

b. Mounting putty is the only approved method to affix decorations. **Tacks, nails, staples, cellophane tape, duct tape, or other fastening methods are not permitted.**

c. Do not throw confetti, birdseed, popcorn, glitter, silly string, rose petals, rice, or other material inside or outside the Community Center. Such materials are very difficult to clean up and create unsafe conditions. Bubbles **may** be used outside the building.

d. At no time shall exits be covered or obstructed.

## DAMAGES

1. Any group, individual, or organization using the facility/room is responsible for damages incurred during use. If damage occurs, the Person-in-Charge and/or the organization represented will be responsible for any costs incurred to repair the damage or for excessive cleanup.

2. The City will retain all or a portion of the damage/cleaning deposit to cover:

a. Cost of repairing the facility/room damaged during the rental period.

b. Costs for staff involved in clean-up for which the renter is responsible.

c. Costs for staff should rental event exceed the ending time indicated on the application.

d. Replacement of stolen or missing items from the premises while under the responsibility of the renter.

3. For damage/cleaning deposit and fee amounts, refer to the current fee schedule. Deposits will be processed after completion of rental following City Finance procedure guidelines.

## STORAGE

1. Storage is not provided for Community Center rentals.

2. There will be limited storage for only the essential items needed to operate ongoing programs (e.g., bridge cards, computer, board games.)

3. Large-item storage may be approved by staff based on the program and on available storage space within the building. Staff reserves the right to terminate storage availability.

## **SUSPENSION FROM FUTURE USE**

Individuals or groups found in violation of established rules and regulations pertaining to rentals may be suspended from use of the facility and/or participation in future programs by authorized City personnel. This shall include overcrowding of the maximum capacity for the room used. Refunds will not be granted when events are interrupted by policy violations.

### **Additional Information:**

1. Weekend rentals, including weekday rentals after 5:00PM and holidays, require an additional staff attendant charge.
2. Reservations will be accepted 1 year in advance to date of event or less. All fees, insurance forms and confirmed hours of rental must be submitted no later than 45 days prior to the event.
3. Application permits are non-transferable.
4. Applicant must be 21 years of age. An adult sponsor must complete reservations for use of Centers by youth groups.
5. At the discretion of the Senior Community Services Supervisor and/or Director, additional security police officers, staff attendants, bonds or insurance may be required at the applicant's expense.
6. The applicant whose signature appears on the rental contract should be present for the full length of the event. If the applicant cannot be present, he should designate an individual and write that name on the contract.
7. All facilities must be returned to the condition previous to the event. A clean-up checklist will be provided.
8. Applicant is responsible for adhering to and enforcing the non-smoking ordinance.
9. Reservations may be revoked at any time whenever the use of buildings or facilities may interfere with Department program activities or where there has been a violation of approved regulations.
10. The City reserves the right to make any physical or furniture changes to the building.

## **RENTAL FEE SCHEDULES**

The San Rafael Community Services Department publishes a Fee Schedule annually. All room rental rates for the Pickleweed Park Community Center shall be exactly 50% of the department's rates for similar facilities at the San Rafael and Terra Linda Community Centers.

A three-tier rate structure applies to all rental contracts:

1. **Non-Profit Organizations-** Proof of non-profit/tax exempt status is required to qualify for these rates.
2. **Private/Non-Profit Fundraising** – Private rental or Non-Profit Fundraising rental.
3. **Commercial** – All events for business or commercial use, for profit or gain, qualify for the Commercial rate.

Fee structure relates to one-time rentals (i.e., weddings, anniversaries, reunions, corporate meetings, fundraisers, art shows) and Recurring Resident rentals. Fees are hourly.

**Rental Fee Waiver:** As per city Council Policy, rental fees may be waived if the applicant meets the criteria listed below:

Rental Fee Waiver Criteria:

1. The date requested is within 30 calendar days of activity.
2. The proposed activity is open to the public.
3. The proposed activity is of direct benefit to the community.
4. The proposed activity is free of charge to the participants.
5. The proposed activity is within regular facility operating hours.
6. Availability of space and compatibility of other programs operating at the time of request will be considered.
7. There exists a demonstrated community interest in the proposed activity.
8. The number of community members likely to participate in proposed activity shall be considered.
9. Impact of proposed event/activity/program on facilities and/or community shall be considered.
10. The proposed event/activity/program will not be part of any private commercial enterprise of promotion thereof.

# SECTION 4 ROOM DESCRIPTIONS AND USE GUIDELINES

## MULTI-PURPOSE ROOM

The Multi-Purpose Room is 3,300 square feet in size and has the capacity to hold 196 people seated, 400 standing. The room may be rented for non-profit, private/non-profit fundraising or commercial events. The room(s) may be rented for use during times when programs and or activities are not scheduled.

### • Room Guidelines

- Food and drink are allowed in this room.
- Dance wax may not be used.
- Only free-standing decorations are permitted. Do not affix any items to the windows.
- Mounting putty is the only approved method for affixing items to the walls and ceilings.
- Tacks, nails, staples, cellophane tape, duct tape, or other fastening method is not permitted.

## GYMNASIUM

The Gymnasium facility is primarily used for sports and fitness related activities. It has a "sports floor", sound and scoreboard systems, basketball backboard/hoops, and is equipped to accept volleyball standards (2 sets). It may be rented for use during times when classes and activities are not scheduled.

### • Room Guidelines

- Food is not allowed in this room.
- Sport drinks or water are the only beverages allowed in this room.
- Use of sound and/or scoreboard systems by approval only.

## CLASSROOMS (1, 2 & 3)

The Classrooms have the capacity to hold 30 (?) people. They are multi-purpose rooms that can be used for meetings, lectures, and small group recreational activities. The classrooms may be rented for use during times when programs or other activities are not scheduled.

### • Room Guidelines

- Food and drinks are allowed in this room.
- Mounting putty is the only approved method for affixing items to the walls and ceilings. Tacks, nails, staples, cellophane tape, duct tape, or any other fastening method is not permitted

## ART ROOM

The Art Room has the capacity to hold 40 people seated, 48 standing. It has a concrete floor. This room is used for arts and crafts activities and educational classes that are scheduled by the San Rafael Community Services Department. It may be rented for use during times when classes and activities are not scheduled.

### • Room Guidelines

- Food and drink are allowed in this room.
- Storage space is limited. Do not leave arts and crafts supplies in the room unless you have made arrangements with the Community Services Department to do so.
- All spills must be cleaned up immediately.
- After using the room, please make sure all sinks, tables, chairs and floor areas are clean.
- Mounting putty is the only approved method for affixing items to the walls and ceilings.
- Tacks, nails, staples, cellophane tape, duct tape, or other fastening methods are not permitted.

## TEEN ACTIVITY ROOM

The Teen Activity Room has the capacity to hold 30 people. This room is primarily used for teen recreational and educational programs, as well as to provide meeting space for various groups. It has a sink and a counter area. The room may be rented for use during times when no classes or other activities are scheduled.

### • Room Guidelines

- Food and drink are allowed in this room.
- Storage space is limited. Do not leave supplies in the room unless you have made arrangements with the Community Services Department to do so.
- All spills must be cleaned up immediately.
- Sink and/or counter area, must be cleaned.
- Mounting putty is the only approved method for affixing items to the walls and ceilings.
- Tacks, nails, staples, cellophane tape, duct tape, or any other fastening method is not permitted.

## COMPUTER LAB

The Computer Lab has 16 computer workstations. It is available to the public for classes and open lab. Schedules will be available in the Community Services Activity Guide, or in the Pickleweed Park Community Center's Biannual Newsletter. San Rafael Public Library Staff will be present during open lab time (30 hours/week).

***\*Each prospective user must attend an orientation session before being granted endorsement to access the internet. The orientation will include training in the use of computer hardware and software, and will provide guidelines for responsible use of the internet. After attending the orientation session, each person must sign an Internet Users Agreement stating that he or she will follow the Community Center's guidelines for internet use. Dependent children under the age of 18 must attend the***



*orientation with a parent or guardian, who will then sign an Internet Users Agreement granting internet access to the child.*

• **Room Guidelines**

- Food and drinks are not allowed in this room.
- Computer stations are available on a first-come, first-served basis.
- There is no monitoring or control of the material that may be accessed through the internet. It is the responsibility of individual users (for minors, their parents/guardians) to restrict access to inappropriate web sites and to determine the suitability of information received on-line.
- Responsibility for internet use by children rests with parents or legal guardians. The City will not limit access to the internet based on the age of the user. Parents are encouraged to work closely with their children to select material that is consistent with personal and family values.
- Each prospective user (or, if a dependent minor, his/her parent or guardian) must sign an Internet Use Agreement.
- Failure to responsibly use the internet as defined in training and in the Internet User Agreement may result in revocation of internet use privileges.
- Loading personal software on Computer Lab equipment is not allowed. Only software provided by the Computer Lab is allowed on the computers.
- Mounting putty is the only approved method for affixing items to the walls and ceilings.
- Tacks, nail, staples, cellophane tape, duct tape, or other fastening method is not permitted.

## **KITCHEN**

The kitchen facility is open seven days a week during the Center's normal operational hours. Kitchen may be rented only in conjunction with rental of the Community Hall.

## **LOBBY**

The Lobby is 1,700 square feet in size. The Reception Desk, which serves as the hub of the Community Center, is located in the Lobby and provides information and/or registration for Community Services Department programs and activities.

The Lobby has a large sitting area that is for general leisure use by the public. It may be used as a conversation area, a reading area, or just a place to relax and enjoy the lovely view. No activities or programs are scheduled in the Lobby, with the exception of special occasions, when authorized by the Community Services Department.

• **Room Guidelines**

- Food and drink are allowed in this area.
- Mounting putty is the only approved method for affixing items to the walls and ceilings.
- Tacks, nails, staples, cellophane tape, duct tape, or any other fastening method is not permitted.

## RENTAL FEE WAIVER APPLICATION

As per San Rafael City Council Policy, rental fees may be waived if the applicant meets the criteria listed below:

1. The date requested is within 30 calendar days of activity.
2. The proposed activity is open to the public.
3. The proposed activity is of direct benefit to the community.
4. The proposed activity is free of charge to the participants.
5. The proposed activity is within regular facility operating hours.
6. Availability of space and compatibility of other programs operating at the time of request will be considered.
7. There exists a demonstrated community interest in the proposed activity.
8. The number of community members likely to participate in proposed activity shall be considered.
9. Impact of proposed event/activity/program on facilities and/or community shall be considered.
10. The proposed event/activity/program will not be part of any private commercial enterprise of promotion thereof

### Facility Usage Requirements:

1. Upon arrival on the day of the event, the Person-In-Charge listed on the application must check in with the Facility Attendant and/or Front Desk.
2. Rentals that extend beyond stated hours of facility operations will be assessed the cost for hourly rental rates and staffing.
3. The Person-In-Charge must be present at all times during the specified rental hours, including set-up and clean-up
4. Attendance at an event is limited to the capacity assigned to the space as specified by Fire Cod. Authorized City personnel may deny or close an event if the attendance exceeds the Fire code. The City reserves the right to terminate any event to protect public safety and/or City property. Refunds will not be made in this case.
5. Facility renters must return all areas utilized inside and outside the facility, to the condition in which they were found. Staff costs involved in additional clean-up will be deducted from the cleaning/damage deposit.

Please complete the attached application and sign below. Department staff will contact you within two working days regarding your request.

I have read and understand the above information:

\_\_\_\_\_

Name

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Received by

### RENTAL FEE WAIVER APPLICATION

Date Submitted: \_\_\_\_\_

Sponsoring Agency/Group: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Program/Activity/Event Title: \_\_\_\_\_



Category:     Educational    Vocational    Recreational    Cultural    Social    Other: \_\_\_\_\_

Description of Program/Activity/Event:

Name(s), Title(s) and contact information of on-site staff (Person in Charge):

Room(s) Requested:

- |  |  |                                      |
|--|--|--------------------------------------|
| <input type="checkbox"/> Classroom(s) (#:____) | <input type="checkbox"/> Community Room          | <input type="checkbox"/> Art Room    |
| <input type="checkbox"/> Teen Activity Room    | <input type="checkbox"/> Computer Lab            | <input type="checkbox"/> Kitchen     |
| <input type="checkbox"/> Gymnasium             | <input type="checkbox"/> Playing Field: (#:____) | <input type="checkbox"/> Picnic Area |

Target Age Group: \_\_\_\_\_ Expected Attendance: \_\_\_\_\_ Max. # Of Participants: \_\_\_\_\_

Day(s) Requested:    Monday    Tuesday    Wednesday    Thursday    Friday    Saturday

Times:        Start: \_\_\_\_\_ a.m./p.m.                      End: \_\_\_\_\_ a.m./p.m.

Start Date: \_\_\_\_\_                      End Date: \_\_\_\_\_                      Total # of Uses: \_\_\_\_\_

How does this activity benefit the community: \_\_\_\_\_

Describe your community outreach strategy: \_\_\_\_\_

What outcomes do you expect for the participants and how do you plan on measuring it? \_\_\_\_\_

OFFICE USE ONLY:                      Value of Request: \$ \_\_\_\_\_



Pickleweed Park Community Center & Library  
San Rafael Community Services Department  
50 Canal Street  
San Rafael, CA 94901  
(415) 485-3077

# **USE AGREEMENT APPLICATION FOR CO-SPONSORED PROGRAMS**

- **Guidelines for Eligibility**
- **Application Form**
- **Outcome Statement Form**
- **Community Outreach Plan & Attendance Reporting Requirements**
- **Program Evaluation Form**

# Pickleweed Park Community Center

## Use Agreement Application for Co-Sponsored Program

### Guidelines for Eligibility City Co-Sponsored Programs

It is the policy of the Community Services Department to co-sponsor programs, activities or events with community organizations based on the established criteria listed below. Co-sponsored programs/activities/events may receive a waiver of facility use fees of up to 100%, may be advertised through department marketing materials, and may receive approval for facility use for up to 12 months.

Applications will be considered prior to each program season, and all applications must be reviewed by the Pickleweed Park Advisory Board. Community Center programming is scheduled on a three times per year (seasonal) basis. (Spring, Summer & Fall/Winter).

Co-Sponsored programs/activities/events may be advertised in the Department's seasonal brochure, and/or biannual Center newsletter as space allows.

A completed Community Outreach Plan must be submitted as part of the application process.

Co-Sponsored programs/activities/events are further defined below:

- The program/activity/event must be open to all residents of San Rafael.
- The program/activity/event is of direct benefit to residents of San Rafael.
- The program/activity/event is low or no fee to participants.

### Application Process

Submission of a completed Co-Sponsored Use Agreement application must be received no later than 45 days prior to the start date of the proposed program/activity/event. To be considered for inclusion in department marketing materials, applications must be received no later than 90 days prior to the start of the upcoming season. All submissions must adhere to the following criteria to be considered:

- The program/activity/event is within the scope of department's mission.
- Availability of requested facility date/time.
- The proposed programs/activities/event is available to all residents of San Rafael (special requirements may apply; minimum age, skill level, etc.).
- The City will maintain a balance of programming to serve all age groups.
- There shall be a current community interest in the proposed programs/activities/event.
- Programs/activities/events that duplicate established offerings may be limited in number to reflect community need.

- The number of community members likely to participate in proposed program/activity/event.
- Impact of proposed program/activity/event on facilities and/or community.
- If fees are charged for program/activity/event, on a separate sheet, please outline the following: Amount charged, type of charge (material fee, etc.) total program budget, scholarship policy.
- The proposed program/activity/event will not be part of any private commercial enterprise of promotion thereof.

**Co-sponsorship Use Agreement applications include:**

1. Program Proposal Form.
2. Program Outcome Statement
3. Community Outreach Plan Form
4. Attendance Reporting Requirements
5. Program Evaluation Form

All applications must be reviewed by the Pickleweed Park Advisory Board (PWAB). The PWAB meets on the first Wednesday of each month. Program representatives are encouraged to attend their review by the board.

Please submit completed application to:

Pickleweed Park Community Center & Library  
ATTN: Supervisor  
50 Canal Street  
San Rafael, CA 94901

For more information, call (415) 485-3077



# Pickleweed Park Community Center

## CO-SPONSORED USE AGREEMENT APPLICATION

Date Submitted: \_\_\_\_\_

Co-Sponsoring Agency/Group: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Program/Activity/Event Title: \_\_\_\_\_

Category:     Educational     Vocational     Recreational     Cultural     Social     Other: \_\_\_\_\_

Description of Program/Activity/Event:

Name(s), Title(s) and contact information of on-site staff:

Requested Room:

- |   |   |                                      |
|---|---|--------------------------------------|
| <input type="checkbox"/> Classroom (#:____) | <input type="checkbox"/> Community Room         | <input type="checkbox"/> Art Room    |
| <input type="checkbox"/> Teen Activity Room | <input type="checkbox"/> Computer Lab           | <input type="checkbox"/> Kitchen     |
| <input type="checkbox"/> Gymnasium          | <input type="checkbox"/> Playing Field: (#____) | <input type="checkbox"/> Picnic Area |

Target Age Group: \_\_\_\_\_ Expected Attendance: \_\_\_\_\_ Max. # Of Participants: \_\_\_\_\_

Day(s) Requested:     Monday     Tuesday     Wednesday     Thursday     Friday     Saturday

Times: Start: \_\_\_\_\_ End: \_\_\_\_\_

Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_ Total # of Weeks: \_\_\_\_\_

How does this activity benefit the community: \_\_\_\_\_

Request for Fee Waiver of:     25%     50%     75%     100%

OFFICE USE ONLY:                      Value of Request: \$ \_\_\_\_\_

## Pickleweed Park Community Center



### CO-SPONSORED USE AGREEMENT PROGRAM OUTCOME STATEMENT

Program/Activity/Event \_\_\_\_\_

Please use this form to outline the expected outcomes for participants involved in this project and how the outcomes will be measured.

#### Outcome Statement #1

#### Measurement tools to be used for Outcome #1

#### Outcome Statement #2

#### Measurement tools to be used for Outcome #2

#### Outcome Statement #3

#### Measurement tools to be used for Outcome #3



# Pickleweed Park Community Center

## CO-SPONSORED PROGRAM USE AGREEMENT

### COMMUNITY OUTREACH PLAN

Program/Activity/Event: \_\_\_\_\_

Please detail your community outreach plan to advertise your program/activity/event:

Which language(s) will your marketing materials be distributed in? \_\_\_\_\_

If no, please tell us why:

### **ATTENDANCE REPORTING REQUIREMENTS** (to be submitted within two weeks of end of use)

Program/Activity/Event Title: \_\_\_\_\_

Please check which the appropriate category for your request:

One Time Use (one day program/activity/event)

Ongoing Use (multiple dates)

For both types of user categories, how many people do you expect to attend your activity:? \_\_\_\_\_

#### **One Time Uses:**

If you are having participants sign-in or pre-register for your activity, please submit your attendance totals with your required follow-up paperwork. If you are not tracking your visitors, please submit attendance estimates. In addition, our facility staff will submit attendance estimates as a part of their daily reporting requirements.

#### **Ongoing Uses:**

Please submit the following attendance reports:

1. Total number of people registered at start of activity.
2. Average attendance per class.



san rafael  
COMMUNITY SERVICES

## Pickleweed Park Community Center

### PROGRAM EVALUATION FORM

Program \_\_\_\_\_

Name: \_\_\_\_\_

Instructor(s) Name(s): \_\_\_\_\_

How did you learn about this program?

What factors made you decide to participate?

Did this program meet your expectations?       Yes       No       Somewhat

If no, please tell us why:

Did the instructor meet your expectations?       Yes       No       Somewhat

If no, please tell us why:

What did you like most about this program?

How do you feel this program could be improved?





**ALBERT J. BORO COMMUNITY CENTER  
PROPOSED COMMUNITY USE POLICY**

50 Canal Street  
San Rafael, CA 94901  
(415) 485-3077

**Section 1: OVERVIEW**

As one of three of the City of San Rafael's community centers serving the City and County of Marin, the Albert J. Boro Community Center is located in the Canal neighborhood and is considered a gathering place for the surrounding community. The Center provides classes, activities, and events for children, adults, and older adults. The Center additionally partners with local organizations to provide programs as well as space for non-profit, private businesses and individuals to rent and hold activities for the community or their families. The purpose of this policy is to provide guidance on the process and regulations associated with community use of the Albert J. Boro Community Center.

**Section 2: USAGE PRIORITY**

The City prioritizes use of the Albert J. Boro Community Center in the following order:

1. Regional and Local Emergencies: Emergency use of Community Center, as determined by the City of San Rafael, to support the community during a regional or local emergency. Possible uses include but are not limited to: Power Safety Power Shutoff charging and information center, emergency shelter, and emergency resource center.
2. City Programs: All programs, activities, and events developed and maintained by San Rafael Library and Recreation Department staff.
3. City Co-Sponsored Programs: All programs, activities and/or events provided through a partnership, collaboration or other agreement with the San Rafael Library and Recreation Department. All City co-sponsored programs are required to complete a Community Use Agreement with San Rafael Library and Recreation Department and are subject to approval by City staff with guidance from the Pickleweed Advisory Committee.
4. Facility Rentals: Paid usage of City facilities by non-profit, private, or commercial entity.

Exception:

- Ongoing City co-sponsored programs are not permitted in the Multi-Purpose Room on Fridays, Saturdays, and Sundays to ensure sufficient space for large event rentals and other activities.

While the City has established the usage priority above, the timeline for which these events are scheduled can conflict with the City's stated priorities. For example, large event rentals are often planned up to a year in advance, while community classes or free programs are organized on a much shorter timeframe. As such, the City's approach to allocating facility space must remain flexible to both honor the desired prioritization of community use at the Albert J. Boro Community Center while at the same time reflecting the realities of the diverse program needs.

Except in the case of an emergency or important City function, established programs will not be bumped for other types of uses unless alternative times, dates, and/or locations can be mutually agreed upon.

### **Section 3: CITY CO-SPONSORSHIP PROGRAMS**

It is the policy of the Library and Recreation Department and the Pickleweed Advisory Committee to consider co-sponsorship of programs, activities, or events based on the established criteria outlined in this policy. A co-sponsored program/activity/event may be established between the Department and one or more groups or organizations. Co-sponsored programs/activities/events may receive a reduced or waiver of facility use fees of up to 100% and may receive approval for facility use for up to 12 months.

Co-Sponsorship Applications are accepted twice a year to accommodate program seasons. Annually, the Committee shall award a maximum of \$140,000 worth of fee waivers. This amount shall be updated and increased proportional to any rental fee increases adopted by City Council.

Co-sponsorship applications must be reviewed and approved by staff, with guidance from the Pickleweed Advisory Committee. City co-sponsored programs are required to abide by the below criteria:

- The program/activity/event must be open to all residents of San Rafael (special requirements may apply; minimum age, skill level, etc.).
- The program/activity/event is of direct benefit to residents of San Rafael.
- The program/activity/event is low or no fee to participants (Program budget required in application).
- The proposed program/activity/event will not be part of any private commercial enterprise of promotion thereof.

In addition to the above requirements, the following criteria will be considered when evaluating co-sponsorship applications:

1. Is the program/activity/event within the scope of the Department's mission?
2. Is there current community interest in the proposed programs/activities/event?
3. Does this help the City maintain a balance of programming to serve all age groups?
4. What is the impact of the proposed program/activity/event on facilities and/or community?
5. How many community members are likely to benefit from the proposed program/activity/event?
6. Is the facility available during the requested date/time?
7. Is the program being offered during normal Albert J. Boro Community Center operating hours and during times and in rooms intended for co-sponsored programming?
8. Programs/activities/events that duplicate established offerings may be limited in number to reflect community need.

Co-sponsored programs/activities/events are cooperatively arranged by the Department and community groups and organizations and require an approved Co-Sponsored Use Agreement before any program/activity/event may begin.

Co-Sponsored programs/activities/events may be advertised in the department's seasonal brochure as space allows.

All City co-sponsored programs will be subject to all City of San Rafael rules, regulations, and procedures. This includes the facility use terms and conditions, as defined in the City of San Rafael Facility Rental Reservation Policies and Procedures and Regulations, including all insurance requirements. However, if available, the City *may* choose to provide limited storage for only those essential items that are needed to operate ongoing programs (e.g., bridge cards, computer, board games). For co-sponsored programs, large-item storage may be approved by staff based on available storage space within the building. Staff reserves the right to terminate storage usage at any time and for any reason.

#### **Section 4: ROOM DESCRIPTIONS AND USE GUIDELINES**

Unless otherwise noted below, the following guidelines apply to all rooms in the Albert J. Boro Community Center in addition to those stated in the City of San Rafael Facility Rental Reservation Procedures and Regulations:

1. Rooms are to be left clean with tables wiped down, floors swept, and chairs placed neatly under the table upon completion of use. Rooms are used by multiple groups daily and respect should be given for the next group using the space.
2. Blue painter's tape or mounting putty are the only approved method for affixing items to the walls. Tacks, nails, staples, cellophane tape, duct tape, or other fastening methods are not permitted.
3. Items may not be affixed to the windows.
4. Supplies may not be left in rooms.
5. Spills must be reported immediately.
6. Do not move tables without first consulting with staff.
7. Sounds, including amplified music, must be kept at a reasonable level and not audible outside of the rooms when the doors are closed.

Below are descriptions of each room along with guidelines specific to their use.

#### **Multi-Purpose Room**

The Multi-Purpose Room is 3,300 square feet in size and has the capacity to hold 200 people seated, 455 standing. The room also has access to a spacious deck (included) and kitchen (for an additional fee). The room may be rented for non-profit, private, non-profit fundraising or commercial events. Co-sponsorship of ongoing programs is not permitted in the Multi-Purpose Room on Fridays, Saturdays, and Sundays to ensure sufficient space for large event rentals and other activities. Advance notice of 72 hours is required for access to Assistive Listening System or ADA wheelchair access to Multi-Purpose Room stage.

#### Specific Multi-Purpose Room Guidelines

1. External doors are to remain closed when amplified music is being played.
2. Dance wax may not be used.

#### **Gymnasium**

The Gymnasium facility is intended for sports and fitness related activities. It has a "sports floor", sound and scoreboard systems, basketball backboard/hoops, and is equipped to accept volleyball standards (2 sets). It may be rented for use during times when classes and activities are not scheduled.

#### Specific Gymnasium Room Guidelines

1. Food is not allowed in Gymnasium.
2. Sport drinks or water are the only beverages allowed.
3. Indoor sports shoes are required.
4. Use of sound and/or scoreboard systems with staff approval only.

#### **Classrooms (3, 4 & 5)**

The Classrooms have the capacity to accommodate 25 people. They are multi-use rooms that can be used for meetings, lectures, classes, and small group recreational activities. The classrooms may be rented for use during times when programs or other activities are not scheduled.

#### **Art Room**

The Art Room has the capacity to seat 30 people. It has a linoleum floors and is used for arts and crafts activities and educational classes. It may be rented for use during times when classes and activities are not scheduled.

#### Specific Art Room Guidelines

1. All spills must be cleaned up immediately.
2. Sink, tables, chairs, and floor must be left clean following use.
3. Tables may not be moved by dragging nor removed from the Art Room. Please ask staff if tables must be rearranged.

#### **Teen Activity Room**

The Teen Activity Room has the capacity to accommodate 6 people. This room is primarily used for small recreational and educational programs, as well as to provide meeting space for various groups that do not require a formal classroom

setting. The room contains three computer terminals with internet access. The room may be rented for use during times when no classes or other activities are scheduled.

**Computer Lab (Available for City and City Co-sponsored programs only)**

The Computer Lab has 16 computer workstations and is available to the public for classes and during open lab hours. Public hours are determined and posted by the Pickleweed Library. San Rafael Public Library Staff will be present during public open lab time.<sup>1</sup> The Computer Lab is for City and Co-Sponsored programs only and is not available for rent.

Specific Computer Lab Room Guidelines

1. Food and drinks are not allowed.
2. Computers are available on a first-come, first-served basis and can be checked out by Library staff.
3. There is no monitoring or control of the material that may be accessed through the internet. It is the responsibility of individual users (for minors, their parents/guardians) to restrict access to inappropriate web sites and to determine the suitability of information received on-line.
4. Responsibility for internet use by youth is the responsibility of their parents or legal guardians. The City will not limit access to the internet based on the age of the user. Parents/legal guardians are encouraged to work closely with their children to select material that is consistent with personal and family values.
5. Failure to responsibly use the internet may result in revocation of internet use privileges.
6. Loading personal software on Computer Lab equipment is not allowed. Only software provided by the City of San Rafael is allowed on the computers.

**Kitchen**

Kitchen may be rented only in conjunction with rental of the Multi-Purpose Room. Kitchen contains sinks, oven, stove, microwave, ice machine, dishwasher, refrigerator and counterspace. Renters and program providers must provide their own needed supplies, i.e.: pots, pans, cutlery, cutting boards, dish soap, etc. Access to Kitchen is not permitted prior to contracted Multi-Purpose Room start time.

**Lobby**

The Lobby is 1,700 square feet in size. The Reception Desk, which serves as the hub of the Albert J. Boro Community Center, is located in the Lobby and provides information and/or registration for Recreation programs and activities.

The Lobby has a large sitting area that is for general leisure use by the public. It may be used as a conversation area, a reading area, or just a place to relax and enjoy the lovely view. No activities or programs are scheduled in the Lobby, with the exception of special occasions as authorized by the Library and Recreation Department.

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<sup>1</sup> Each prospective user must have a San Rafael Library card, which can be obtained at the Pickleweed Library.

## Agenda Item No. 5.f

### ORDINANCE NO. 1998

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AMENDING THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE NAME OF TITLE 19 FROM “OPEN SPACE” TO “PUBLIC PARKS, PROPERTY, AND OPEN SPACE”; TO REPEAL CHAPTER 8.10 (PARKS AND RECREATION) AND ADD A NEW CHAPTER 19.20 (PARKS AND RECREATION) TO TITLE 19; TO REPEAL CHAPTER 5.70 (MEETINGS ASSEMBLIES AND PARADES IN PUBLIC PLACES) OF TITLE 5 AND ADD A NEW CHAPTER 19.30 (ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY) TO TITLE 19; TO ADD NEW CHAPTER 19.40 (EXPRESSIVE ACTIVITIES IN PUBLIC PLACES) TO TITLE 19; TO ADD NEW SECTION 5.60.054 TO CHAPTER 5.60 (PARKING REGULATIONS); AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City Council of the City of San Rafael does ordain as follows:

**Section 1.** The City Council of the City of San Rafael hereby finds and declares as follows:

- A. Chapter 8.10 of the San Rafael Municipal Code entitled “Parks and Recreation” was last amended by Ordinance No. 1795 in 2002, and to proactively manage the City's parks and other public places, to ensure their safe usage and enjoyment by residents, and to meet the needs of the changing community, a periodic review and update of the regulations is necessary.
- B. It will facilitate the transparency and ease of use of the San Rafael Municipal Code to move the regulations concerning activities on public property, including public parks and recreation, parades and assemblies, and expressive activities to the same part of the Code that regulates public open space.
- C. The City Council desires to clarify that camping is prohibited in public parking garages.

**Section 2:** Amendment to the Title of Title 19 – Open Space – of the San Rafael Municipal Code

The Title of Title 19 – Open Space, of the San Rafael Municipal Code is hereby amended to read as follows:

Title 19 – PUBLIC PARKS, PROPERTY, AND OPEN SPACE

**Section 3:** Repeal of Chapter 8.10 – Parks and Recreation, of Title 8 – Morals and Conduct, of the San Rafael Municipal Code

Chapter 8.10 – Parks and Recreation, of Title 8 – Morals and Conduct, of the San Rafael Municipal Code is hereby repealed in its entirety.

**Section 4:** Adoption of Chapter 19.20 – Parks and Recreation, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code

## **Agenda Item No. 5.f**

New Chapter 19.20 – Parks and Recreation, of Title 19 – Public Parks, Property, and Open Space, is hereby added to the San Rafael Municipal Code to read as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

### **Section 5: Repeal of Chapter 5.70 – Meetings, Assemblies and Parades in Public Places, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code**

Chapter 5.70 –Meetings, Assemblies and Parades in Public Places, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code is hereby repealed in its entirety.

### **Section 6: Adoption of Chapter 19.30 -- Assemblies and Parades in Public Streets and Rights-of-Way, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code**

A new Chapter 19.30 – Assemblies and Parades in Public Streets and Rights-of-Way, of Title 19 – Public Parks, Property and Open Space, is hereby added to the San Rafael Municipal Code to read as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

### **Section 7: Adoption of Chapter 19.40 – Expressive Activity in Public Places, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code**

A new Chapter 19.40 – Expressive Activity in Public Places, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code is hereby adopted to read as set forth in Exhibit C, attached hereto and incorporated herein by this reference.

### **Section 8: Adoption of Section 5.60.054 – Overnight Camping in Parking Garages Prohibited, of Chapter 5.60 -- Parking Regulations, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code**

A new section 5.60.054 is hereby added to Chapter 5.60 – Parking Regulations, of Title 5 –Traffic Regulations, of the San Rafael Municipal Code, to read as follows:

5.60.054 – Overnight Parking in Parking Garages Prohibited.

No person shall camp, or use or store camp facilities or camp paraphernalia, as defined in section 19.20.010 of this code, in or on the premises of any parking garage owned or operated by the City of San Rafael.

**Section 9. Severability.** If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

**Agenda Item No. 5.f**

**Section 10. Compliance with CEQA.** The City Council hereby finds that the action to adopt this ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility the adoption of this ordinance may have a significant effect on the environment, and pursuant to CEQA Guidelines section 15183 (consistent with the general plan and zoning).

**Section 11. Publication; Effective Date.** 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.

  
KATE COLIN, Mayor

ATTEST:

  
LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1998 was read and introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 2<sup>nd</sup> day of August 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 16<sup>th</sup> day of August 2021.

  
LINDSAY LARA, City Clerk

## Agenda Item No. 5.f

### EXHIBIT A

#### TITLE 19 CHAPTER 19.20 PARKS AND RECREATION

##### Chapter 19.20 - PARKS AND RECREATION

###### 19.20.010 - Purpose and Intent

The purpose and intent of this chapter is to provide rules and regulations respecting the use of City parks and recreation facilities which are necessary to protect the public health, safety and general welfare of the residents of the City and users of parks and recreation facilities, including prohibiting smoking in park and recreational facilities, and which are necessary to ensure that the parks and recreation facilities are maintained in a manner consistent with the broadest use thereof by the residents of the City. Unless otherwise stated, the provisions of this chapter apply to any City park and recreation facility.

###### 19.20.020 - Definitions.

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

- A. "Amplified sound" means speech, sounds, or music projected or transmitted by electronic equipment including amplifiers, loudspeakers, microphones, bull horns or similar devices or combinations of devices which are intended to increase the volume, range, distance or intensity of speech, sounds, or music and are powered by electricity, battery or combustible fuel.
- B. "Buildings" means and includes those buildings, structures, or any portion thereof, within or on any City owned land, including buildings and structures within Parks and on Recreation Facilities. "Buildings" include "Cultural and Community Centers."
- C. "Camp" or "Camping" means occupying camp facilities, using camp paraphernalia, or residing in or using a public space for living accommodation purposes, including sleeping and making preparations to sleep (including the laying down of bedding for the purpose of sleeping). "Camp" or "camping" shall also mean the conduct of these activities in a vehicle. "Camp" or "camping" shall not mean occupying camp facilities or using camp paraphernalia for temporary picnicking, recreating, or resting purposes. "Camp paraphernalia" includes, but is not limited to, tents, tarpaulins, cots, beds, mattresses, sleeping bags, hammocks, non-city designated cooking facilities and similar equipment.
- D. "City Manager" means City Manager or their designee. For example, in some circumstances the administrative responsibility under this chapter may be delegated to the Library and Recreation Department or the Department of Public Works, and in circumstances requiring enforcement, that responsibility may be delegated to the Police Department, Fire Department, Parking Services or Code Enforcement.
- E. "Cultural and Community Centers" means and includes City-owned properties in which classes, activities, events, meetings, seminars, banquets, weddings, fundraisers,



## Agenda Item No. 5.f

historical tours and activities, theater, gardening, and other similar activities may take place.

- F. "Expressive Activity" means conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas. Expressive Activity includes, but is not limited to, public oratory and the distribution of literature.
- G. "Facility amenities" include, but are not limited to, playground and exercise equipment, park or public place benches, picnic tables, public art, public buildings, swimming pools, walls, fences, gates, trees, monuments, signs, buildings, roofs, playing surfaces, railings, backstops, parking lots, trails, or tables in a park or public place, or upon any park property.
- H. "Open space property" means any area described in San Rafael Municipal Code Section 19.10.020.
- I. "Park(s)" means and includes every park, plaza, outdoor public area, trails, open space property, greenbelt, or portion thereof together with any accompanying parking lot or staging area, which is owned, managed, or controlled by the City of San Rafael for the recreational use and/or enjoyment of the public.
- J. "Permit" means a permit issued by the City of San Rafael which permit shall contain the following information: the name of person or organization to whom the permit is issued; the name of the park and/or recreation facility and/or the identification of the activity and designated area where such activity may be conducted; the effective date(s) and times of the permitted activity; and such other administrative information as may be necessary.
- K. "Person" means an individual, association (regardless of incorporation status), organization, partnership, firm, corporation, or company.
- L. "Recreation Facility" means fields, courts, pools, amphitheaters, areas specifically designed for organized activities such as, but not limited to, baseball, softball, soccer, tennis, basketball, and organized group gatherings which are owned, managed, or controlled by the City of San Rafael for the recreational use and/or enjoyment of the public.
- M. "Refuse" means any garbage, trash, bottles, cans, papers, ashes, food and vegetable material, rubbish, industrial wastes, animal waste, grass clippings, yard clippings, tree or shrub pruning or any other discarded substance, matter or thing, whether liquid or solid.
- N. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- O. "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled, and shall include any trailer in tow of any size, kind or description. For purposes of this chapter, a vehicle does not include a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, used by a sidewalk vendor engaging in sidewalk vending with a permit issued for such activity.

## **Agenda Item No. 5.f**

### 19.20.030 - Permit Required for Exclusive Uses and Large Gatherings.

- A. A person wanting either (1) exclusive use of any Park, Building or portion thereof, or (2) use of a Park, Building or portion thereof for gatherings of 25 or more persons, must apply for and obtain a permit for such use, activity or event, from the City Manager. It is unlawful for any person to engage in any use of any Park, Building or portion thereof, for which a permit is required, without obtaining such a permit.
- B. Permits issued pursuant to this section shall entitle permittees, for the duration of said permit, to exclusive use of the portion of the Park or Building specified in said permit.
- C. The fees for issuance of permits issued pursuant to this section shall be set forth by separate resolution of the City Council.
- D. Nothing in this section shall require persons or entities to obtain a permit for Expressive Activities. Permit requirements for Expressive Activities are set forth in Chapter 19.30 of this Code.

### 19.20.040 - Permit Application and Conditions of Approval

- A. Permit Regulations. All applications for permits required by the provisions of this chapter shall be made to the City Manager on such forms provided and shall contain such information as the City Manager shall deem appropriate. The City Manager shall adopt regulations establishing permit application procedures which regulations may be amended from time to time.
- B. Permit Fees. Applications for permits required under the provisions of this chapter shall be accompanied by permit fees set forth by separate resolution of the City Council.
- C. Conditions of Approval. Permits issued under the provisions of this chapter are subject to such reasonable conditions as the City Manager or designee may determine necessary to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the park. These conditions may include conditions relating to waste management and restoration of the park, environmental protection, conditions to ensure safe accommodation of an event's pedestrian and vehicular traffic, and reasonable designation of alternate sites, times, dates, or modes for exercising expressive activity. Such conditions may include, but shall not be limited to, the following:
  - 1. Limitations upon the times during which the proposed use will be permitted.
  - 2. Limitations upon the locations at which the use will be permitted.
  - 3. Limitations upon the number of people that will be permitted to participate in a use at a given location.
  - 4. Limitations upon the type of equipment allowed and the manner in which it is utilized, including prohibitions on amplified sound.

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5. Requirement that the applicant furnishes private patrol or security where the nature of the use will impose undue burdens on the police services of the City.
6. Requirement that the applicant provide temporary sanitary facilities, trash containers, etc.
7. Requirement that the applicant post fees, deposits or other security to cover extraordinary costs which may be incurred by the City as a result of the proposed use.

### 19.20.050 - Criteria for Issuance of Permits.

The City Manager shall issue a permit pursuant to the provisions of this chapter unless the City Manager determines the application meets any of the following criteria:

- A. The information contained in the application, or supplemental information provided, is not complete or is materially false or misleading.
- B. The applicant has failed to submit a complete application, supply satisfactory evidence of insurance, or has not remitted the fees or deposits as required by this chapter.
- C. The Park, Building or portion thereof is unavailable for the period for which the permit is requested.
- D. The area proposed for the applicant's use or activity could not physically accommodate the number of participants expected to participate in a safe manner.
- E. The proposed use, activity or event is not compatible with the uses established for the requested park, building or portion thereof, in that it unreasonably interferes with use of the park by others.
- F. The proposed use has a realistic potential to create a threat to the public health, safety or welfare, or to damage public property, which may not be adequately remedied by reasonable traffic control and other safety measures. However, this provision does not authorize the denial of a permit because of a real or perceived need to protect persons engaging in Expressive Activity or property from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of such participants with the number of police officers available to police such proposed use.
- G. The proposed use would require the diversion of public safety or other City employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the City, or the event will adversely affect the City's ability to reasonably perform municipal functions or furnish City services.
- H. The proposed use, event or activity will have a significant adverse environmental impact.
- I. The proposed use would be in conflict with applicable provisions of any federal, state and/or local law.

The City Manager's decision to issue or deny a permit pursuant to the provisions of this chapter shall be final and not subject to appeal.

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### 19.20.060 - Permit holder responsibilities and obligations.

After a person obtains a permit, that permit holder must:

- A. Comply with all rules and regulations and all applicable City ordinances as though the same were incorporated into the permit.
- B. Comply with all conditions imposed by the permit.
- C. Inform all attendees of the conditions of the permit and the applicable rules and regulations.

### 19.20.070 – Use of Parks and Buildings.

#### A. Rules and Regulations Regarding Use.

1. The City Manager is vested with authority over and control of all Parks and Buildings for the purpose of causing to be corrected any condition which violates, or which would tend to cause or contribute to any violation of, the purpose and provisions of this chapter.
2. The City Manager may establish reasonable rules, policies, or regulations governing the use and enjoyment of any Park or Building in order to maximize the use and enjoyment of the Park or Building by the public in addition to those contained in this chapter, and no person shall disobey or violate same.

#### B. Hours. Except as provided in this subsection, Parks and Buildings are open for public use from sunrise until sunset. Except as provided in this subsection, no person shall enter, remain in, cross upon or use, any park, building or portion thereof, between sunset and sunrise.

##### 1. Exceptions.

- a. At any time, the City Manager may exclude any person(s), whether or not such persons are permit holders, from parks, buildings, or portions thereof, where such exclusion is necessary to protect public property, the public health, safety or welfare or to preserve the public peace.
- b. Whenever any park, building or portion thereof, has been reserved for exclusive use of a permit holder, that area may be closed to all others not associated with that permit holder's exclusive use.
- c. A permit holder may use the Park, Building or portion thereof beyond regular hours if allowed under the permit holder's permit.
- d. Regardless of park and building hours restrictions, a person may use lighted parks, buildings, or portions thereof, under the conditions posted and as specifically designated by the City Manager. No person shall use any Park, Building, or portion thereof, in violation of such posted hours and conditions.

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### C. Dogs, pets and other animals.

1. No person shall bring or allow a dog, pet, or other animal owned or maintained by them into any park, building or portion thereof, unless such dog or pet is on a leash and under control at all times.
2. Any person having custody or control of a dog, pet, or other animal in any park, building, or portion thereof, shall be responsible for any damage caused by such dog, pet, or other animal even if on leash and under control, including but not limited to the removal of feces.
3. The provisions of subsection A 1 above shall not apply to service dogs if laws or regulations authorize service dogs in areas otherwise prohibited by this chapter.
4. No person shall abandon, hunt, capture, harm, or feed any animal in any park or building.

### D. Alcohol.

1. No person shall either consume any alcoholic beverage or possess any alcoholic beverage open container in any park, building or any parking lots associated therewith.
2. A person may possess or consume alcoholic beverages in a park, building or portion thereof if the person is associated with or rightfully attending a use, activity, or event for which a permit has been issued and the permit allows alcohol use.
3. A person, whether a permit holder or not, may not furnish or sell alcoholic beverages in parks, buildings or portions thereof, unless that person:
  - a. Complies with all applicable rules and regulations of the alcohol beverage control board.
  - b. Obtains the appropriate license from the alcohol beverage control board.
  - c. Obtains a permit from the City Manager permitting the use and consumption of alcoholic beverages.
4. No person, whether a permit holder or not, shall enter or remain in any park, building or portion thereof, while under the influence of an alcoholic beverage, a drug of any type or a combination thereof.

### E. Vehicles in parks.

1. Except for police officers and City employees acting in the course and scope of their employment, no person shall operate any motorized vehicle into any park except for on the streets, highways, and designated parking areas for a park.

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2. All provisions of the Vehicle Code of the State of California in regard to equipment and operation of vehicles shall apply to all parks or portions thereof.
  3. All persons in a park or portion thereof shall obey all police officers and City employees authorized and instructed to direct traffic in any park or portion thereof in accordance with the provisions of these regulations and such supplementary regulations as may be issued by the City Manager.
  4. All persons in any park or portion thereof, shall carefully observe all traffic signs indicating speed, direction, caution, stopping or parking, and all other signs posted for proper control and to safeguard life and property.
  5. No person shall operate or use any bicycle, scooter, skateboard or roller/in-line skates, in any park except upon paved park roads, or upon pathways and other areas which have been specifically designated for such use.
  6. No person shall park any vehicle in any park except in an established or designated parking area, and such use shall be in accordance with the posted directions or with the instructions of a duly authorized attendant.
  7. A person shall be permitted to wheel or push, not ride, a bicycle by hand over any grassy area or on any paved area reserved for pedestrian use in any park.
  8. No person shall use or permit use of a skateboard or scooter, in a manner that results in two or more persons being carried on such scooter or skateboard, nor use a bicycle to carry two or more persons unless the bicycle is specifically designed to carry such additional persons or attached with a trailer designed to carry persons.
  9. No person shall leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
  10. No person shall leave a bicycle, scooter, skateboard or roller/in-line skates lying on the ground, sidewalk or pavement, or set against trees, or in any walkway, path or paved area designed for pedestrians.
- F. Refuse and pollution. Pursuant to SRMC 19.12.034, no person shall throw or deposit any refuse, rubbish, garbage, debris, paper, glass, dirt, dust animal or vegetable matter, cans, sweepings or other matters of similar nature in or upon any Park or Building except in authorized public receptacles.

### 19.20.080 - Prohibited activities.

- A. Amplified Sound. No person shall use or create any amplified sound in any Park, Building or portion thereof where such noise violates the provisions of SRMC Chapter 8.13.
- B. Fires.
  1. No person shall build, kindle or light a fire in any park, for any purpose, except for a fire maintained in a City-owned and designated park fire pit or park barbecue.

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2. No person shall leave an area where a fire has been kindled or maintained until the fire has been extinguished and is cold to the touch.
  3. No person shall possess or ignite any fireworks, as defined in Health and Safety Code section 12511, in any park. This prohibition includes both “dangerous fireworks” as defined in Health and Safety Code section 12505 and “safe and sane fireworks” as defined in Health and Safety Code section 12529.
  4. No person shall leave unattended any lit cigar, cigarette, match or other flammable article.
- C. Camping.
1. No person shall camp, in any park, building or portion thereof, including the parking lot of any such area.
  2. No person shall use or store camp facilities or camp paraphernalia in any park, building, or portion thereof, including the parking lot of any such area.
  3. Nothing in this section shall be deemed to prohibit camping on all public property, including parks, when there is no alternative shelter available to the person camping; provided that the City Manager may nevertheless absolutely prohibit camping at any time in one or more specific parks where such prohibition is determined to be a threat to the public, health, safety, or welfare.
- D. Guns and Dangerous Instruments. No person, except those persons listed in California Penal Code Section 12031(b) and 12031(c), shall have in their possession in any park, building or portion thereof, any dangerous weapon, bow and arrows, pellet or air gun, slingshot, crossbow, firearm, or destructive device as that term is defined in Section 12301 of the Penal Code.
- E. Swimming and boats. No person shall swim, wade, float, dive or otherwise enter any fountain, pond, lake, stream or other water feature, natural or man-made, in any Park or Building except in those areas so designated by City for such swimming, wading, floating or diving.
- F. Golfing. No person in a park, building or portion thereof, shall golf, including but not limited to chipping, putting, driving or otherwise practicing golf.
- G. Commercial Activities. No person shall practice, carry on, or conduct any business or profession or other commercial enterprise, nor sell or offer for sale any service, merchandise, article, or anything whatever, nor station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing, in any park, building or portion thereof, except by permit issued by the City Manager and subject to all other provisions of this code. This subsection shall not apply to City concessionaires or to persons acting under a lease, license or permit issued by the City.
- H. Goods or services—Exhibitions, private lessons and classes. No person in a park, building, or portion thereof, shall: (1) sell any goods or services; (2) conduct or maintain any show, performance, concert, place of amusement or exhibition; or (3) conduct private lessons or classes unless such person has received the prior written permission of the City Manager or other City department charged with authorizing such activities.

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- I. Advertising. No person shall place, post, paste, glue or otherwise affix, distribute or erect any handbill, circular, pamphlet, sign, placard, inscription or advertisement to any tree, fence, shrub, stick or structure in any park, building, or portion thereof.
- J. Smoking. Pursuant to section 9.04.050 of this code, no person shall smoke in any Park or Building.
- K. Gambling. No person shall play or bet at or against any game which is played, conducted, dealt or carried on for money, chips, shell, credit, or any other representative of value, or maintain or exhibit any gambling table or other instrument of gambling or gaming, or play any game prohibited by any city ordinance or state law, in any park, building or portion thereof.
- L. Motor driven cycles, model vehicles and planes. No person shall operate, transport or maintain any motor driven cycle, motorcycle, motorized bicycle, moped, or shared mobility device as the same are defined in the Vehicle Code or determined in the reasonable discretion of the Chief of Police or their designee, within any park, building, or portion thereof, except in those areas as may be specifically designated for such purpose or with the written permission of the City Manager. No person shall operate any airborne, waterborne, land borne model or remote-controlled plane, any rocket or missile, or any vessel or vehicle, whether such plane, rocket, missile, drone, vessel or vehicle uses an internal combustion engine or is propelled/operated otherwise, within any park, building or portion thereof except in those areas as may be specifically designated for such purpose or with the written permission of the City Manager.
- M. Special Amusement Equipment. No person shall use construct or use any special amusement equipment in any park unless authorized under terms of a permit issued by the City Manager. For the purposes of this provision, "special amusement equipment" shall mean the use of any non-personal equipment that requires the use of running water, generators, or connection to park electrical utilities to use or operate, or requires the erection of any permanent or temporary structure over 6 feet tall, and shall specifically include moon bounces or any inflatable bounce houses, climbing walls, carousels, dunk tanks, ball crawls, pony rides, slip and slides. Permits issued for such uses shall require indemnification of the City, and insurance naming the City as an additional insured.
- N. Interference with Permitted Exclusive Use. No person shall interfere with an exclusive use permitted under this chapter, and each must immediately vacate that portion of any park or building that has been reserved for exclusive use by another person upon being presented with a permit obtained pursuant to this chapter.
- O. No person shall mark, deface, injure, tamper with, displace or remove, any bridges, tables, benches, fireplaces, railings, paving, water lines, other public utilities, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or any improvements; structures, equipment, facilities or Park or Building property or appurtenances whatsoever, either real or personal, in any Park, Building, or portion thereof.
- P. No person shall litter, soil or defile restrooms.



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- Q. No person shall dig, remove or vandalize any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency, in any park.
- R. No person shall construct or erect any building, edifice, artwork or structure of any kind, permanent or temporary, or construct any public service utility, including but not limited to, any overhead wires, into, upon, through, under or across any Park or Building, without obtaining any and all permits required by this code or other applicable regulations.
- S. No person shall enter, cross or remain in any lawn, grass plot, planting area, or any other area in any park, where prohibited by the City Manager, and where such prohibition is indicated by appropriate signs, fencing or cordoning, or by warning cones.
- T. No person shall damage, cut, carve, transplant, pick, remove or injure in any manner any tree, flower, bush or plant in any park or building.
- U. No person shall climb any tree or walk, stand or sit upon monuments, vases, fountains, water features, railings, fences, statutes or structures of any kind not intended for such purposes.

### 19.20.090 - Park closure.

Any park, building or portion thereof may be declared closed to the public by the City Manager at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or only to certain uses, as the City Manager finds reasonably necessary for reasons including but not limited to: natural disaster; local, State and/or National emergencies; for the protection of property; and/or for the public health, safety or welfare. No person shall enter or remain in any park, building, or portion thereof, which has been closed and noticed as closed by appropriate signs, fencing or cordoning, or other means giving notice of park closure.

### 19.20.100 - Enforcement.

The provisions of this chapter may be enforced by any code enforcement official as defined in Section 1.08.020 of this code.

### 19.20.110 – Violations of Chapter.

It is unlawful for any person to violate any of the provisions of this chapter, any park rule or regulation adopted pursuant to this Chapter, or to violate any of the terms and conditions of a permit issued pursuant to this chapter. Violation of this Chapter and any permits issued pursuant to this Chapter are deemed a public nuisance and may be subject to enforcement pursuant to Chapters 1.40, 1.42, 1.44 and 1.46 of this code.

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### **EXHIBIT B**

#### **TITLE 19**

#### **CHAPTER 19.30**

### **ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY**

#### **Chapter 19.30- ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY**

##### 19.30.010 - Definitions.

As used in this chapter:

- A. "Assembly" means the assembling or coming together of a number of persons for a particular purpose.
- B. "Expressive Activity" shall have that meaning set forth in section 19.20.020 of this code.
- C. "Funeral procession" means a single direct movement from a mortuary or church to the place of burial of a human body, under direction of an authorized funeral director.
- D. "March" means a planned or organized gathering of a group of persons, or which may reasonably be expected to result in the gathering of a group of persons, upon any public street, which gathering travels through, across and/or along public streets.
- E. "Parade" means a planned or organized procession of any kind.

##### 19.30.020 - Permit required.

Except as otherwise provided in this Chapter or other applicable law, an Event Permit shall be required to be obtained from the San Rafael Police Department for the following activities:

- A. A parade, procession, march or assembly consisting of persons, animals, vehicles, or any other combination thereof, which is to assemble or travel in unison on any public street, highway, alley, sidewalk or other City-designated public right-of-way and which either: (1) may impede, obstruct, impair or interfere with the free use of such public street, highway, alley, sidewalk, or other public way owned, controlled or maintained by the City; or (2) does not comply with normal or usual traffic regulations or controls.
- B. Event Permits shall be on forms provided by the City and shall require insurance and indemnification from the permittee.
- C. Events Permits requiring the consent of other governmental or private entities shall not be issued where such consent is not provided.
- D. Nothing in this section shall require persons or entities to obtain a permit for Expressive Activities or spontaneous events. Permit requirements for Expressive Activities and regulations regarding spontaneous events are set forth in chapter 19.40 of this code.

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### 19.30.030 - Exceptions.

This chapter shall not apply to any of the following:

- A. Funeral processions.
- B. A governmental agency acting within the scope of its functions.
- C. Expressive Activities as that term is defined in chapter 19.40 of this code.
- D. Activities subject to permits pursuant to chapter 19.20 of this code.

### 19.30.040 - Application.

Application for permits under this chapter must be filed with the chief of police not less than ninety (90) days in advance of a proposed parade, and not less than seven (7) days in advance of a proposed public march or assembly. Late applications may be accepted if filed sufficiently in advance of the date of the proposed activity to enable the chief of police to determine that said activity will meet the requirements set forth in section 19.30.050. The application shall be in writing and shall give the following information:

- A. The name, address and telephone number of the person requesting the permit. If the activity is proposed to be conducted for, on behalf of, or by any organization, the name, address and telephone number of the headquarters of the organization and the authorized head of such organization shall be stated.
- B. The name, address and telephone number of the person who will be directly in charge of and responsible for the activity.
- C. The purpose of the activity.
- D. The date, time and location or route of the proposed activity.
- E. The approximate number of persons who will participate in the activity, and the number and kind of vehicles, equipment and animals, which will be used.
- F. Plans for the dispersal of the activity, including the times and locations thereof.
- G. A statement as to whether the activity will occupy all or only a portion of the streets proposed to be traversed.
- H. A statement as to whether a permit has been requested or obtained from any other city within which said activity shall commence, terminate or occur in part.

### 19.30.050 - Findings required.

The chief of police or their designated representative shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, they find that:

- A. The activity will not substantially interrupt the safe and orderly movements of traffic in areas of the City beyond the direct vicinity of the proposed activity.

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- B. The activity will not require the diversion of so great a number of police officers to properly police the activity and the areas contiguous thereto, as to prevent normal police protection to the city.
- C. The concentration of persons, animals and vehicles will not unduly interfere with proper fire and police protection of, or ambulance service to, areas where the activity will take place, areas contiguous to such area or the remainder of the City.
- D. The activity will not unduly interfere with the movement of fire-fighting equipment en route to a fire, or the movement of other emergency equipment.
- E. The proposed activity includes sufficient security and/or safety mechanisms and protocols so as protect the general health, safety and welfare of the activity participants and the public at large.
- F. Such activity is not to be held for the sole purpose of advertising the goods, wares, or merchandise of a particular business establishment or vendor.
- G. The activity as proposed, will not violate any applicable law.

### 19.30.060 - Conditions to permit.

- A. The chief of police, or their designated representative, shall condition the permit on the activity complying with the findings set forth in section 19.30.050. The chief of police, or their designated representative shall require the payment for additional police personnel required for proper management of the activity.
- B. Each permittee shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify and hold harmless the City against losses and liabilities incurred from conduct of the permittee or its officers, employees, agents, and invitees.
- C. The permittee shall procure and maintain in full force and effect during the term of the permit a policy of insurance which policy includes the City, its boards, officers, agents, employees and volunteers as additional insureds and which provides the standard coverage required by the City.

### 19.30.070 - Prior application.

If a prior permit application shall have been made for an activity proposed to be held at the same time or place, the chief of police or their designated representative may refuse approval of the later application. In case of such refusal, they shall forthwith send the applicant a written notice that they may apply for an alternate time and place.

### 19.30.080 - Notice of issuance or denial.

Written notice of the issuance or denial of a permit shall be provided to the applicant by the chief of police or their designated representative within ten (10) days of receipt of a completed application. If a permit is denied said written notice shall state the reasons for denial.

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### 19.30.090 - Appeal procedure.

The applicant shall have the right to appeal the denial of a permit to the city manager. A notice of appeal shall be filed with the city clerk within two days after receipt of notice of the denial. The city manager shall act upon the appeal within 30 days following receipt of notice of appeal. It may affirm or modify the action of the chief of police or their designated representative. The city manager's decision shall be final.

### 19.30.100 - Damage or Injury to City Property

The permittee shall be responsible for the removal of all written materials and other property, including restoring the city street, sidewalk, and/or right-of-way in which the activity occurred to its original condition prior to the activity. The permittee shall be responsible for any damage resulting from the activity.

### 19.30.110 - Duty of permittee.

- A. A permittee hereunder shall comply with all terms and conditions of said permit and with all applicable laws and ordinances.
- B. The written permit obtained pursuant to this chapter shall be carried by the person heading or leading the activity for which the permit was issued.

### 19.30.120 - Revocation of permit.

The chief of police or their designated representative may revoke any permit issued hereunder if (1) the permittee fails to comply with the terms and conditions of said permit, and any other local, state or federal laws governing the activity, or (2) if the activity, because of the manner in which it is being conducted, is jeopardizing those elements of the public safety or welfare set forth in section 19.30.050.

### 19.30.130 - Public conduct during an assembly or parade.

- A. It is unlawful for any person to unreasonably obstruct, impede or interfere with any parade, procession, march or assembly or with any person, vehicle or animal participating in such a parade, meeting or assembly for which a permit has been granted in accordance with the provisions of this chapter.
- B. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade, procession, march or assembly. The chief of police shall post signs to such effect, and it is unlawful for any person to park or leave unattended any vehicle in violation thereof.

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### **EXHIBIT C**

#### **TITLE 19 CHAPTER 19.40 EXPRESSIVE ACTIVITY IN PUBLIC PLACES**

##### **Chapter 19.40 – EXPRESSIVE ACTIVITY IN PUBLIC PLACES**

###### 19.40.010 – Purpose and Intent

The purpose of this Chapter is to protect the First Amendment rights of the people of San Rafael to peaceably assemble and/or protest in the City’s public places and to establish the least restrictive and reasonable time, place and manner regulation of these activities. It is further intended to provide a coordinated process for managing events to ensure the health and safety of event patrons, residents, workers, and other visitors, to prohibit illegal activities from occurring at the community events, and to create mechanisms for cost recovery and use charges, to the extent authorized by law, while not unduly impacting the viability of events.

###### 19.40.020 – Definitions

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

- A. “Buildings” has the same meaning as in Section 19.20.020(B) of this Code.
- B. “Expressive activity” means conduct, the sole or principal object of which is the expression of opinion, views, or ideas, protected by the First Amendment of the U.S. Constitution. Expressive activity includes, but is not limited to, public oratory and distribution of literature.
- C. “Park(s)” has the same meaning as in Section 19.20.020(I) of this Code.
- D. “Permit” has the same meaning as in Chapter 19.20.020(J) of this Code.

###### 19.40.030 – Permit Required for Large Expressive Activity Gatherings

- A. Except as otherwise provided by the Municipal Code or other applicable law, rule or regulation, an expressive activity permit shall be required to be obtained from the Police Department for following:
  - 1. Any activity or event with the principal purpose of engaging in expressive activity, on City owned, controlled, or maintained property, where the activity involves a gathering of one hundred or more persons, or involving fifty or more persons at the San Rafael City Plaza.
- B. Expressive activity permits shall not be required to be obtained from the Police Department for the following types of activities:

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1. Any expressive activity on City owned, controlled, or maintained property involving less than one hundred persons, or involving less than fifty persons at the San Rafael City Plaza.
2. School grounds are exempt from the requirements of this Chapter.
3. Spontaneous events which are occasioned by news or affairs coming into public knowledge less than forty-eight hours prior to such event may be conducted on (1) City property surrounding City Hall, (2) the San Rafael Plaza, (3) City sidewalks as long as the spontaneous event on a sidewalk does not impede vehicular traffic, or (4) the full public right-of-way, only if authorized by the Chief of Police and City Manager in the interest of community health and welfare, without the organizers first having to obtain an expressive activity permit, if the event organizer provides at least four hours prior notice to the Chief of Police of the date, time, and location(s) where the event is to be conducted, their contact information, and an estimate of the number of persons that will be participating. Events which require advance planning such as recreation events, competition/contests/spectator sports, fairs, festivals, carnivals, ticketed events, sales/trade shows or events which require a permit from the San Rafael Parks and Recreation Department shall not be considered spontaneous events.

### 19.40.040 – Permit Application

- A. To receive an expressive activity permit, a person must complete and file an application with the Police department on a form approved by the City. The applicant must provide the following information:
  1. A description of the proposed use, event, or activity.
  2. The street or other public property and the specific area or areas thereof which will be utilized in connection with the proposed use, event, or activity.
  3. The manner in which the public property will be utilized.
  4. The date or dates and the specific times thereof, including set-up and tear-down, that the public property is to be utilized for the described use, event, or activity.
  5. The name, address and telephone number of the person, entity, or organization sponsoring or conducting the proposed event.
  6. The name, address and telephone number of the person or persons to be contacted regarding the application or permit.
- B. The application shall be filed no later than two days before commencement of the event. The Police Department shall review and issue or deny the application within one day of receipt of a completed application.

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### 19.40.050 – Review Process

- A. Subject to the criteria for denial set forth in Section 19.40.060, the Police Department shall issue an expressive conduct permit if it is determined that all of the following criteria have been met:
1. The proposed use of City property is not governed by or subject to any other permit procedures provided elsewhere in this Code.
  2. The preparation for or the conduct of the proposed activity will not unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the particular permit area or adversely affect the City's ability to perform municipal functions or furnish city services in the vicinity of the permit area.
  3. The proposed activity does not otherwise present a substantial or unwarranted safety, noise, or traffic hazard.
  4. The proposed event will be of a nature and size appropriate to the proposed venue, location, or site, and will occur during a time period approved for that venue, location, or site.
  5. The proposed event will not include animals except pursuant to regulations regarding animals in parks set forth in Chapter 19.20 of this Code.
  6. A transportation management/parking plan has been approved by the City for the event to the extent such a plan is deemed necessary by the City.
- B. In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, or the identity or associational relationships of the applicant.

### 19.40.060 – Denial/revocation of permit

The Police Department shall deny any application for an expressive activity permit or revoke a permit if the Department finds any of the following:

- A. One or more of the approval criteria specified in Section 19.40.050 is not or can no longer be met.
- B. The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process.
- C. The application does not contain the information required by this chapter.
- D. The application does not satisfy the requirements of this chapter.
- E. The applicant fails to comply with any conditions of approval including, but not limited to:



## **Agenda Item No. 5.f**

1. Remittance of fees, charges or deposits,
2. Submittal of an indemnification agreement and/or proof of insurance for the event as required by the City;
3. Timely receipt of all required approvals; and
4. A condition that if City property is destroyed or damaged by reason of permittee's use, event or activity and the damage or destruction is directly attributable to the permittee, the permittee shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

F. The applicant has damaged City property and has not paid in full for such damage or has other outstanding and unpaid debts related to a prior community event permit issued by the City.

### 19.40.070 – Permit Fees

Expressive activity permit application fees and other additional fees and charges, including neighborhood notification fees, for the use of city streets or other city-owned or controlled property pursuant to this chapter shall be established by separate resolution of the City Council.

### 19.40.080 – Appeals

An applicant may appeal the denial or revocation of a permit by providing the City Manager or designee written notice of appeal within five (5) days of the denial. The City Manager or designee shall hold a hearing within five (5) days of the filing of a notice of appeal, at which time applicant may present any and all evidence, testimony, and information relevant to the City Manager's decision. The City Manager or designee, within five (5) days following the appeal hearing, shall issue a decision. The decision of the City Manager or designee shall be mailed or delivered to the applicant and shall be final and binding.

### 19.40.090 – Interference with Expressive Activity Prohibited

It shall be unlawful for any person to interfere with an event permitted under this chapter by engaging in the following acts when done with the intent to cause interference:

- A. Blocking, obstructing, or impeding the passage of participants, vehicles, or animals in the community event along the community event route.
- B. Walking or running, driving a vehicle, riding a bicycle or skateboard, or using any similar device through, between, with, or among participants, vehicles, or animals in the community event.
- C. Dropping, throwing, rolling, or flying any object toward, among, or between participants, vehicles, or animals in a community event.

### 19.40.100 – Hold Harmless

## **Agenda Item No. 5.f**

Each permittee shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify, and hold harmless the City against losses and liabilities incurred from the conduct of the permittee or its officers, employees, and agents.

### **19.40.110 – Display of Expressive Activity Permit**

A copy of the expressive activity permit shall be displayed at the community event site and shall be exhibited upon demand of any City official.

### **19.40.120 – Administrative Regulations**

The City Manager, or designee, may adopt administrative regulations that are consistent with and that further the terms and requirements set forth within this chapter. All such administrative regulations must be in writing.

### **19.40.130 – Penalties**

Any person who intentionally violates any of the provisions of this chapter shall be guilty of an infraction. Violations of this chapter may be enforced pursuant to any laws and remedies available to the City including but not limited to enforcement as an infraction and/or public nuisance pursuant to chapters 1.42, 1.44 and 1.46 of this code.

## SUMMARY ORDINANCE NO. 1998

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE NAME OF TITLE 19 FROM “OPEN SPACE” TO “PUBLIC PARKS, PROPERTY, AND OPEN SPACE”; TO REPEAL CHAPTER 8.10 (PARKS AND RECREATION) AND ADD A NEW CHAPTER 19.20 (PARKS AND RECREATION) TO TITLE 19; TO REPEAL CHAPTER 5.70 (MEETINGS ASSEMBLIES AND PARADES IN PUBLIC PLACES) OF TITLE 5 AND ADD A NEW CHAPTER 19.30 (ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY) TO TITLE 19; TO ADD NEW CHAPTER 19.40 (EXPRESSIVE ACTIVITIES IN PUBLIC PLACES) TO TITLE 19; TO ADD NEW SECTION 5.60.054 TO CHAPTER 5.60 (PARKING REGULATIONS); AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1998, which is scheduled for adoption by the San Rafael City Council at its regular meeting of August 16, 2021. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

Ordinance No. 1998 will change the title of San Rafael Municipal Code (SRMC) Title 19 from “Open Space” to “Public Parks, Property, and Open Space” and will consolidate in Title 19 several of the Municipal Code’s regulations governing the use of public property. The Ordinance will amend SRMC Chapter 8.10 --“Parks and Recreation,” and move it to become new SRMC Chapter 19.20 – “Parks and Recreation”. The Ordinance will also amend SRMC Chapter 5.70 – “Meetings, Assemblies and Parades in Public Places”, and move it to become new SRMC Chapter 19.30 – “Assemblies and Parades in Public Streets and Rights-of-Way”. The Ordinance will add to the San Rafael Municipal Code a new Chapter 19.40 – “Expressive Activity in Public Places”, to establish special regulations for activities on public property that are considered to be “expressive activities” that are given special protection by the United States and California Constitutions. The Ordinance will also add new Section 5.60.054 to prohibit overnight camping in parking garages owned or controlled by the City of San Rafael.

Copies of Ordinance No. 1998 will be available for public review as of Friday, August 6, 2021 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 Lisa Goldfien, Assistant City Attorney, at (415) 485-3080 or [lisa.goldfien@cityofsanrafael.org](mailto:lisa.goldfien@cityofsanrafael.org) for information.

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LINDSAY LARA  
San Rafael City Clerk  
Dated: 08/06/21



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

**Department: Parking Services Division**

**Prepared by: Jim Myhers, Parking Services  
Division Manager**

**City Manager Approval:** \_\_\_\_\_

**TOPIC: RENEWAL OF ABANDONED VEHICLE ENFORCEMENT PROGRAM**

**SUBJECT: RESOLUTION APPROVING THE REQUEST TO EXTEND THE MARIN COUNTY  
ABANDONED VEHICLE ABATEMENT PROGRAM SERVICE AUTHORITY SERVICE  
FEE THROUGH APRIL 30, 2032**

**RECOMMENDATION:**

Adopt Resolution extending the Abandoned Vehicle Abatement Program Service Authority service fee through April 30, 2032.

**BACKGROUND:**

California Vehicle Code section 22710 allows for the establishment of a service authority for the abatement of abandoned vehicles and authorizes such service authority to impose a one dollar service fee per vehicle at the time of registration ("service fee"), to support the program. Per that code, Marin County along with the cities and towns in Marin County created the Marin County Abandoned Vehicle Abatement Program Service Authority in October 1991 and imposed the authorized vehicle service fee. The program is administered by the Marin General Services Authority (MGSA), formerly called the Marin Street Light Acquisition JPA.

California Vehicle Code section 9250.7 provides that the service fee imposed by the service authority shall remain in effect for 10 years and may be extended by the same process by which it was created. The vehicle service fee imposed by the MGSA is scheduled to expire on April 30, 2022 and its renewal requires the County Board of Supervisors and the majority of cities having the majority of the population within the county to adopt resolutions approving extending the fee.

**ANALYSIS:**

San Rafael Municipal Code 5.40.030 states that "No person who owns or has possession, custody or control of any vehicle shall park or leave the vehicle standing upon any street or alley for more than seventy-two (72) consecutive hours, or for longer than any shorter maximum time indicated on posted signs." The majority of San Rafael has time limits of 72 hours while some parts of East San Rafael have shorter limits of 24 hours.

San Rafael has 1.25 full time employees dedicated to the abatement of abandoned vehicles. Those employees respond to calls for service received electronically or by telephone and the majority of the service calls are for vehicles parked in excess of 72 hours on a city street.

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**FOR CITY CLERK ONLY**

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

For the Fiscal Year ending on June 30<sup>th</sup>, 2021 the San Rafael abatement program officers have warned 2,224 vehicles for being abandoned and towed 233 vehicles. Most of the vehicles were towed for being abandoned and the balance were towed for being inoperative (missing engines, transmissions, doors etc.) or for expired registration more than 6 months.

Staff has prepared a resolution approving extension of the Abandoned Vehicle Abatement Program service fee for another 10 years, through April 30, 2032. If the service fee is not renewed, Parking Services will not have the financial resources to continue the abatement program using dedicated staff, and cars reported as abandoned or inoperative will remain on city streets for a significantly longer period of time.

**FISCAL IMPACT:**

San Rafael Parking Services receives reimbursement from the MGSA on a quarterly basis based on the enforcement activities from the previous quarter. Reimbursements average between \$17,000-\$20,000 per quarter over the last several years. Reimbursements are disbursed based on a previously agreed upon formula that takes into consideration the number of vehicles abated, population and location.

**OPTIONS:**

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

1. Adopt resolution as written approving a 10-year extension of the service fee.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

**RECOMMENDED ACTION:**

Adopt the resolution approving the request to extend the Marin County Abandoned Vehicle Abatement Program Service Authority service fee through April 30, 2032.

**ATTACHMENTS:**

Resolution Approving the Request to Extend the Marin County Abandoned Vehicle Abatement Program Service Authority Service Fee through April 30, 2032

**RESOLUTION NO.**

**RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL APPROVING THE REQUEST TO EXTEND THE MARIN COUNTY ABANDONED VEHICLE ABATEMENT PROGRAM SERVICE AUTHORITY SERVICE FEE THROUGH APRIL 30, 2032**

**WHEREAS**, the Marin County Abandoned Vehicle Abatement Program Service Authority was formed in 1991 pursuant to California Vehicle Code Section 22710; and

**WHEREAS**, pursuant to California Vehicle Code 9250.7, the Service Authority imposes a one dollar (1\$) annual service fee on motor vehicles to owners residing in Marin County, to be collected as part of the vehicle registration fees; and

**WHEREAS**, existing authority to collect the one dollar service fee is set to expire at the end of April 2022; and

**WHEREAS**, California Vehicle Code 9250.7 has been amended to allow for a 10-year extension of the service fee upon approval by two-thirds of the members of the Board of Supervisors and subsequent confirmation by the city councils of a majority of the incorporated cities in the County comprising a majority of the incorporated population; and

**WHEREAS**, the City of San Rafael has previously adopted a resolution authorizing an extension of the service fee; and

**WHEREAS**, it is desirable to the residents of San Rafael that the vehicle abatement program continue;

**NOW, THEREFORE BE IT RESOLVED** that the San Rafael City Council does hereby approve the request to extend the Marin County Abandoned Vehicle Abatement Program Service Authority Service Fee through April 30, 2032.

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 San Rafael City Council held on the 16<sup>th</sup> day of August 2021, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: City Manager

Prepared by: Cristine Alilovich,  
Assistant City Manager

City Manager Approval: \_\_\_\_\_

**TOPIC: SAN RAFAEL SOCIAL JUSTICE COMMUNITY ART GROUP PROPOSAL FOR A PUBLIC ART INSTALLATION**

**SUBJECT: RESOLUTION APPROVING THE DESIGN AND INSTALLATION OF A PUBLIC ART MURAL AT ARBOR PARK**

**RECOMMENDATION:**

Adopt resolution approving the design and installation of a public art mural at Arbor Park.

**BACKGROUND:**

On [February 16, 2021](#) the City Council approved Ordinance No. 1991, amending Section 14.25.040 of the City of San Rafael Municipal Code, 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.

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.

To facilitate a path for reviewing public art projects, the City created a Pilot Public Arts Program for the calendar year 2021. Previously the San Rafael Municipal Code classified murals and mural signs on private property as "major physical improvements" that required Environmental and Design Review. This type of review required a recommendation by the Design Review Board and a consideration and approval by the Planning Commission. The process took up to six months and required extensive staff and applicant time in coordination and preparation of reports. It was burdensome for arts groups and the \$8,523 fee which is now waived (as part of the Pilot Public Art Program) likely discouraged prospective public mural art projects from happening in San Rafael.

The Pilot Public Arts Program also includes a Public Art Advisory Group made up of local community art representatives, a member each of the Planning Commission and the Design Review Board, and a representative with diversity, equity & inclusion expertise. For public art projects that are being proposed for installation at a City park, a member of the Park & Recreation Commission will also be included as a member of the Advisory Group. The Advisory Group was created to discuss and provide feedback on

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

proposed public art projects in a public forum that includes an opportunity for both the Advisory Group members and members of the public to comment on proposed public art projects.

The Advisory Group is an advisory body only and was formed in order to provide the City Council with their collective feedback on the public art projects that come forward during this pilot program. The Advisory Group does not have official authority to approve public art projects. Once reviewed by the Advisory Group, public art projects are considered by the City Council for approval.

The San Rafael Social Justice Community Art Group along with the Canal Arts Initiative, were the first two groups to go through this pilot process. The Canal Arts Initiative has since completed and successfully installed their mural at 3301 Kerner Boulevard.

The San Rafael Social Justice Community Art Group (SJCA group) came together in Fall 2020 in response to the chalk art mural created at the intersection of Manuel T. Freitas Parkway and Las Gallinas Avenue over the summer of 2020. The chalk mural, honoring the life of Breonna Taylor, was removed per City policy to keep public property clear of markings. The SJCA group is comprised of 11 arts and community members who live and work in San Rafael and supported by a local, professional facilitator, Lorenzo Jones. In addition, the group partnered with Youth in Arts, a San Rafael based non-profit to provide expertise, fundraising, and a youth component to the project. The project's focus is on creating art that includes a positive message to celebrate the core themes of JEDI – Justice, Equity, Diversity, and Inclusion through the lens of a Marin-based Black, Indigenous and People of Color (BIPOC) perspective. The hope of the SJCA group was that the art piece would inspire neighbors to gather and have crucial conversations around the critical issues of racial and social justice. YIA is also planning to hold community art programming/events in Arbor Park in the spirit of continued community building at this location.

The SJCA group identified Arbor Park, a small parkette at the southwest corner of the intersection of Manuel T. Freitas Parkway and Las Gallinas Avenue as their preferred location for the artwork. This location is close in proximity to the original chalk art mural and is owned by the City of San Rafael. Arbor Park resides in the northern part of San Rafael in the Terra Linda neighborhood. Located at the southwest intersection of Las Gallinas Ave and Manuel T. Freitas Pkwy, Arbor Park is what San Rafael calls a Parkette, or a small park. It consists of a few benches, grass area, and walking path. The park is highly visible to cars and pedestrians who travel in Terra Linda along Manuel T. Freitas which is the main thoroughfare for the neighborhood.

YIA (on behalf of the San Rafael Social Justice Community Public Art Group) was able to secure a \$10,000 grant from the County of Marin for this project. The City of San Rafael also provided an additional \$10,000 of funding to support the artists creating the art piece and in acknowledgement of the assistance provided by the Social Justice Community Art Group in their collaboration with City staff on the City's public art pilot program.

**ANALYSIS:**

The SJCA group issued a Call for Artists in early 2021. All artists, adults and children practicing in and around San Rafael were eligible and encouraged to apply. Two applications were received and one of them was considered to meet the minimum qualifications defined in the Call for Artists. The SJCA selected Orin Carpenter, Teacher and Visual and Performing Arts Director at Marin Catholic High School, to lead/mentor a group of youth to co-create the art piece.

Orin Carpenter is not only a youth art educator, but an accomplished artist in his own right. The SJCA found Orin's response to the Call for Artists to be exceptionally responsive based on his lived experience, expertise and passion for working with youth. The following is a direct quote from Orin:



*“Being an artist of color (AOC), I have the power to bring others into the world I experience through the lens of my creations. I have the power to educate, elevate, and challenge anyone who encounters my works of art. Allowing everyone to see the world through my eyes and hopefully change their perception with a new vision and offer them the opportunity to share in the journey... my journey.”*

Orin’s artwork can be found here: <https://www.orincarpenter.com>.

Youth in Arts (YIA) held an application process in early summer and ten (10) youth artists applied and were selected (Figure 1) including nine (9) local high school students and one (1) college youth art assistant, Owen Martinez-Alejandre, who is a recent graduate of Marin School for the Arts. The youth program working under the name “C Street: Untitled” met this summer on Monday and Wednesday mornings from June 28 to August 4 at Youth in Arts to co-create the piece. The youth artists were also paid a stipend for their work. The group was mentored by Orin and Owen drafted concepts around the words, “Liberty, Freedom, and Justice.” The youth artist also chose to create an art piece that represented empowerment, justice, peace, and humanity.

**Figure 1**

<b>Name</b>	<b>School</b>
<b>Amber E.</b>	Terra Linda High School
<b>Anaya R.</b>	San Marin High
<b>En-Ya Z.</b>	Terra Linda High School
<b>Kyndall C.</b>	Marin Catholic High School
<b>Miya K.</b>	Archie Williams High School
<b>Natalie W.</b>	Balboa High School
<b>Natasha H.</b>	Marin School of the Arts
<b>Owen M.</b>	Sonoma State University
<b>Valerie B.</b>	Terra Linda High School

**“C Street: Untitled”**

The proposed art piece is an original painted mural (see Attachment 2) that would be installed as a triptych with three separate panels, each 6 feet wide and 9 feet tall at Arbor Park facing the intersection of Las Gallinas Ave. and Manuel T. Freitas Parkway. This project qualifies as a public art project pursuant to San Rafael Municipal Code (SRMC) Section 14.25.040 and is therefore exempt from design review and application of development standards. Nonetheless, careful consideration was taken to ensure that the panels would not be higher than adjacent property fences and will not be seen from the backyards of private residences. Additionally, placement of the artwork will comply with sight distance requirements established by SRMC Section 14.16.295. The artwork would be printed on vinyl or a similar medium and applied onto the panels, along with an anti-graffiti coating. Vinyl prints allow for easy replacement if the mural is damaged or needs to be reprinted for any reason. Additionally, the SJCA group has proposed improvements to the park site including a bench, plants, and trees. Staff is still working with the SJCA group to determine final material choices for the park, as well as items including lighting and specific plant types.

The project was presented before the Public Advisory Group in May and July and received unanimous support. Comments included support that the theme fit the park well, as well as requesting that information about the project and an interpretation panel were provided. The feedback was taken, and the artists are incorporating that suggestion into the final product.

Per the Pilot Public Art Program, the City Council has the authority to approve public art in San Rafael. Staff recommends approval of the mural design, size, and location.

If approved, it is anticipated that the installation of the mural would be completed this Fall. It is the intent that the mural will be displayed for multiple years. There may be opportunities in the future to rotate artwork at the site, but any changes would include extensive community outreach and would also require approval by the City Council at that time.

YIA plans to activate the San Rafael Public Art Social Justice piece by offering in-person family workshops, artist “talk-backs”, and digital content and study guides accessible digitally on the YIArts.COR, the organization's creative online learning platform. All offerings will be free to the community. In addition to artist names and information on theme, motif, symbols, and artist intent, the piece will also include a QR (quick response) code that can be scanned to access additional digital education and informational content. All such programming is being developed in tandem with the creation of the piece and will be available by the unveiling.

Youth in Arts is excited to showcase Youth Emerging Artists' work in progress and process documentation from C Street: Untitled in an exhibit at the YIA Gallery from September 17 - November 19. The exhibit is free and open to the public. More information can be found at YIA's website: <https://youthinarts.org/programs/c-street-untitled/>.

**Pilot Public Art Program – Next Steps**

Per approval by the City Council, the Pilot Public Art Program will run through 2021. Using the information and feedback gained from the Canal Arts Initiative and SJCA group projects, staff will evaluate the pilot program and make recommendations to the City Council for moving forward. Staff will conduct further community outreach and ensure all stakeholders are given an opportunity to provide input on the Pilot Public Art Program. Any revisions made to the program guidelines and/or process will be brought to the City Council for consideration in 2022.

**COMMUNITY OUTREACH:**

Extensive community outreach has been conducted with community groups in Terra Linda including the Terra Linda Homeowners Association. In addition to the two Public Art Advisory meetings and one Park and Recreation Commission meeting, staff presented informational reports regarding the project at the February 16 and [June 21, 2021](#) regular meetings of the City Council. A virtual community meeting was held on August 10 where the artist presented the final art design and the community provided their feedback.

Throughout the process, the City has been updating a [webpage](#) dedicated to Public Art with information regarding these projects and an opportunity for members of the public to sign up for news and notices about public art projects in San Rafael. The City also promoted updates on the projects on Nextdoor, Twitter, and other social media.

**FISCAL IMPACT:**

The City previously provided \$10,000 to the project, which was included as part of the City's general fund fiscal year 2020-21 budget. The City has also offered to provide in-kind services to support the art installation and improvements to the park.

**OPTIONS:**

The City Council has the following options:

1. Adopt resolution to approve the design and installation of a public art mural at Arbor Park.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.

**ATTACHMENTS:**

1. Resolution
2. San Rafael Social Justice Community Public Art Group Mural Design

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL APPROVING THE DESIGN AND INSTALLATION OF A PUBLIC ART MURAL AT ARBOR PARK**

**WHEREAS**, On February 16, 2021 the City Council approved Ordinance No. 1991, amending Section 14.25.040 of the City of San Rafael Municipal Code, 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; and

**WHEREAS**, 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; and

**WHEREAS**, the City developed a pilot Public Art Advisory Group as part of the separate review process; and

**WHEREAS**, the San Rafael Social Justice Community Art Group came together in fall 2020 in response to the chalk art mural created at the intersection of Manuel T. Freitas Parkway and Las Gallinas Avenue over the summer of 2020; and

**WHEREAS**, the San Rafael Social Justice Community Art Group in partnership with Youth in Arts solicited a “Call for Artists” and selected a local artist to develop and create public art with the theme of social and racial justice; and

**WHEREAS**, the artist mentored ten (10) local youth artists over the summer of 2021 and co-created a mural; and

**WHEREAS**, the public art project was presented to the Public Art Advisory group on two occasions, the Park and Recreation Commission, as well as at a community meeting; and

**WHEREAS**, public art and its location must be approved by the City Council;

**NOW, THEREFORE BE IT RESOLVED**, that the City Council hereby approves the installation of the proposed mural at Arbor Park.

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 16th day of August 2021, by the following vote, to wit:

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

\_\_\_\_\_  
**Lindsay Lara, City Clerk**







**City of San Rafael**  
In Recognition of  
**National Preparedness Month 2021**

WHEREAS, in San Rafael, our community is susceptible to human-caused and natural disasters including earthquakes, wildland fires, floods, pandemics, and other large-scale emergencies we cannot predict; and

WHEREAS, recent events, including drought, wildfires, and an ongoing pandemic have emphasized environmental, structural and social vulnerabilities; and

WHEREAS, when large-scale emergencies occur Professional First Responders and Disaster Workers will be overwhelmed and need the support of prepared and trained residents; and

WHEREAS, government agencies and disaster organizations cannot bear the sole responsibility to prepare for and respond to disasters; and

WHEREAS, working in partnership with our community members, Community Emergency Response Teams (CERT), Neighborhood Response Groups (NRGs) and community organizations, we can minimize the loss of lives and injuries, reduce the impact to property and the natural environment, and more quickly help our community find a new normal post emergency; and

WHEREAS, the City of San Rafael will join the nation in emphasizing this year's theme, "Prepare to Protect" because 'preparing for disasters is protecting everyone you love'; and

WHEREAS, the City of San Rafael and partner organizations will provide a variety of trainings, resources, and outreach to encourage residents and staff to take steps to make a plan, build a kit, sign up for alerts, and educate others; and

WHEREAS, the time, energy and effort residents, business owners, and San Rafael employees invest in preparing now will create more resilient communities that can better prevent, navigate, and recover from a disaster.

NOW, THEREFORE, I, Kate Colin, Mayor of San Rafael, do hereby proclaim the month of September 2021 as

National Preparedness Month


and in doing so, urge all residents and community members to take emergency preparation steps to increase our community's resiliency to large scale emergencies or disasters.



Kate Colin  
Mayor



Agenda Item No: 8.a  
Meeting Date: August 16, 2021

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**  
Department: POLICE DEPARTMENT  
Prepared by: David Spiller, Police Chief  
City Manager Approval: 

**TOPIC: AUTHORIZATION FOR BACKGROUND CHECKS**  
**SUBJECT: CITY COUNCIL AUTHORIZATION FOR BACKGROUND CHECKS FOR CITY EMPLOYMENT AND CITY LICENSES**

- 1. AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADDING CHAPTER 2.22 TO THE SAN RAFAEL MUNICIPAL CODE, ENTITLED "BACKGROUND CHECKS"
- 2. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE CITY TO ACCESS STATE AND FEDERAL SUMMARY CRIMINAL HISTORY FOR NEW EMPLOYEE AND LICENSEE BACKGROUND INFORMATION THROUGH THE DEPARTMENT OF JUSTICE

**RECOMMENDATION:**  
Hold a public hearing and:  
1. Pass the ordinance to print.  
2. Adopt the resolution.

**BACKGROUND:**  
Since 2008, the City has implemented an administrative policy to take fingerprints and run a background check on every applicant who has accepted employment with the City. This policy was adopted to facilitate state requirements for a background check prior to employment in certain types of positions with the City. Certain City-issued licenses and certifications, such as the Cannabis Operator's License and the Massage Therapist Certification, also depend on the applicant passing a background check.

California Penal Code Sections 11105(b)(11) and 13399(b)(11) authorize cities to access state and local summary criminal history information for employment, licensing or certification purposes; and further authorize cities to access federal level criminal history for those purposes by transmitting

\_\_\_\_\_  
**FOR CITY CLERK ONLY**

File No.: \_\_\_\_\_  
Council Meeting: \_\_\_\_\_  
Disposition: \_\_\_\_\_



fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation (FBI).

Recently, the federal government has strengthened its requirements for obtaining access to the national criminal database, requiring specific authorization by a city's city council to receive such information. The City of San Rafael is therefore required to have specific City Council authorization in order to continue its practice of conducting background checks prior to City employment and licensing.

**ANALYSIS:**

The City's Police Department obtains state criminal history information by transmitting fingerprints to the California Department of Justice. When a check against the national criminal database is required, as it typically is, the State acts on the City's behalf and transmits the fingerprints to the federal Department of Justice for a report from the FBI. The City has been advised by the State that the FBI is now requiring such requests to be authorized by both an ordinance and a resolution of the City Council. While normally, both a resolution and an ordinance are not required to implement a City Council action, the FBI is requiring both in this case.

The attached ordinance and resolution authorize background checks to be conducted prior to any employment with the City, and also when the City's Municipal Code requires a successful background check prior to issuance of, or as a condition of holding, a City-issued license, permit, or certificate. Adoption of the ordinance and resolution merely formalizes the authority for Police Department staff to continue its longstanding practice of conducting background checks for these purposes.

If approved, the attached resolution will be immediately effective, and the ordinance will return to the City Council for final adoption at its next regular meeting.

**FISCAL IMPACT:**

There is no fiscal impact associated with the recommended actions. Police Department staff already takes fingerprints and conducts the background checks.

**OPTIONS:**

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

1. Pass the ordinance to print and adopt the resolution authorizing background checks.
2. Direct staff to return with more information.
3. Take no action.

**RECOMMENDED ACTION:**

1. Pass to print the Ordinance adding Chapter 2.22 to the San Rafael Municipal Code, entitled "Background Checks."
2. Adopt the Resolution authorizing the City to access state and federal summary criminal history for new employee and licensee background information through the Department of Justice.

**ATTACHMENTS:**

1. An Ordinance of the City of San Rafael City Council Adding Chapter 2.22 to the San Rafael Municipal Code, Entitled "Background Checks"
2. A Resolution of the City Council of the City of San Rafael Authorizing the City to Access State and Federal Summary Criminal History for New Employee and Licensee Background Information Through the Department of Justice

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADDING  
CHAPTER 2.22 TO THE SAN RAFAEL MUNICIPAL CODE, ENTITLED  
“BACKGROUND CHECKS”**

**Section 1. Findings.**

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13399(b)(11) authorize cities to access state and local summary criminal history information for employment, licensing or certification purposes; and

**WHEREAS**, Penal Code Section 11105(b)(11) also authorizes cities to access federal level criminal history by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation; and

**WHEREAS**, Penal Code Section 11105(b)(11) and 13300(b)(11) require the City Council to specifically authorize access to summary criminal information for employment, licensing, or certification purposes; and

**WHEREAS**, the City Council has not yet specifically authorized access to summary criminal information for all employment, licensing, or certification purposes.

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

**Section 2: Addition of Chapter 2.22 to the San Rafael Municipal Code.**

Title 2 of the San Rafael Municipal Code, entitled “Administration” is hereby amended by adding a new Chapter 2.22 entitled “Background Checks” to read in its entirety as follows:

**2.22.010. Background Checks Required.**

California Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorize access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), such background checks shall be conducted as follows:

- A. A background check is authorized to be conducted prior to any type of employment by the City of San Rafael, including for volunteer and independent contractor positions. No person shall be employed by the City of San Rafael if the applicant has been convicted of an offense that is substantially related to the qualifications, functions, or

duties of the employment position, as determined by the police chief or his/her designee.

- B. A background check is authorized to be conducted prior to issuance of any City license, permit, or certification where this Code prohibits issuance or holding of the license, permit, or certification based on specific criminal conduct on the part of the subject of the record.

**Section 3. Severability.** If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

**Section 4. Compliance with CEQA.** The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment, and pursuant to CEQA Guidelines section 15183 (consistent with the general plan and zoning).

**Section 5. 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.

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Kate Colin, Mayor

ATTEST:

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LINDSAY LARA, City Clerk

The foregoing Ordinance No. \_\_\_\_\_ was read and introduced at a regular meeting of the City Council of the City of San Rafael on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_ 2021, and was 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 \_\_\_\_\_, 2021.

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LINDSAY LARA, City Clerk

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL  
AUTHORIZING THE CITY TO ACCESS STATE AND FEDERAL SUMMARY  
CRIMINAL HISTORY FOR NEW EMPLOYEE AND LICENSEE BACKGROUND  
INFORMATION THROUGH THE DEPARTMENT OF JUSTICE**

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13399(b)(11) authorize cities to access state and local summary criminal history information for employment, licensing or certification purposes; and

**WHEREAS**, Penal Code Section 11105(b)(11) also authorizes cities to access federal level criminal history by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation; and

**WHEREAS**, Penal Code Section 11105(b)(11) and 13300(b)(11) require the City Council the specifically authorize access to summary criminal information for employment, licensing, or certification purposes; and

**WHEREAS**, the City Council has not yet specifically authorized access to summary criminal information for employment, licensing, or certification purposes.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of San Rafael that the City of San Rafael is hereby authorized to access state and federal level summary criminal history information for employment (including volunteers and contract employees) purposes, and for licensing, permitting, and certification purposes where required by the San Rafael Municipal Code or other applicable ordinances, and may not disseminate the information to a private entity.

**I, LINDSAY LARA**, City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City held on the 16<sup>th</sup> day of August 2021, by the following vote:

**AYES: COUNCIL MEMBERS:**

**NOES: COUNCIL MEMBERS:**

**ABSENT: COUNCIL MEMBERS:**

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**Lindsay Lara, City Clerk**

**CITY OF SAN RAFAEL**  
**NOTICE OF PUBLIC HEARING**

**CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SAN RAFAEL ADDING NEW CHAPTER 2.22 TO THE SAN RAFAEL MUNICIPAL  
CODE, ENTITLED "BACKGROUND CHECKS"**

- DATE/TIME/PLACE: Monday, August 16, 2021  
**COVID-19 ADVISORY NOTICE:** *Consistent with Executive Orders No.-25-20 and No. N-29-20 from the Executive Department of the State of California and the Marin County March 16, 2020 Shelter in Place Order, the San Rafael City Council hearing WILL NOT be physically open to the public and the meeting will be streamed live to YouTube at: [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael). Instructions on how to participate online, will be available on the YouTube channel.*
- PURPOSE: To receive public comments and consider the adoption of an ordinance adding a new Chapter 2.22 to the San Rafael Municipal Code entitled "Background Checks". The proposed ordinance would require that a criminal background check be conducted prior to employment with the City of San Rafael, and where required under the San Rafael Municipal Code in connection with an application for a City license, permit or certification.
- IF YOU CANNOT ATTEND: You can send written correspondence by email to [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org), or by mail/hand delivery to the Office of the City Clerk, City of San Rafael, 1400 5<sup>th</sup> Ave., San Rafael, CA 94901.
- FOR MORE INFORMATION: Contact Lieutenant Dan Fink, San Rafael Police Department, at 415-485-3148, or at [447@srpd.org](mailto:447@srpd.org)

SAN RAFAEL CITY COUNCIL

\_\_\_\_\_  
LINDSAY LARA  
CITY CLERK, CITY OF SAN RAFAEL



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Community Development

Prepared by: Alicia Giudice, Director  
Barry Miller, Contract Project Mgr.

City Manager Approval: \_\_\_\_\_

**TOPIC: SAN RAFAEL 2023-2031 HOUSING ELEMENT**

**SUBJECT: INFORMATIONAL REPORT ON THE 2023-2031 HOUSING ELEMENT AND COMMUNITY ENGAGEMENT PROGRAM**

**RECOMMENDATION:**

Accept the report and provide feedback to staff.

**EXECUTIVE SUMMARY**

This staff report addresses the purpose and required contents of the Housing Element, the Regional Housing Needs Allocation (RHNA), new Housing Element requirements, and the timeline for the Housing Element update. It also addresses community engagement, including creation of a “Housing Element Working Group”.

The Housing Element is the City’s plan for conserving and maintaining its housing supply, removing regulatory barriers to housing production, and meeting the housing needs of all residents, including lower-income households and individuals with special needs. The element must include an analysis of these four areas:

- Integration and segregation patterns and trends
- Racially or ethnically concentrated areas of poverty
- Disparities in access to opportunity
- Disproportionate housing needs within the jurisdiction, including displacement risk

The Housing Element is part of the San Rafael General Plan. However, it was not included in the General Plan 2040 (adopted on [August 2, 2021](#)) because the Housing Element follows a schedule set by the State of California. The schedule aligns with housing production allocations established by the State. Cities and counties in the Bay Area were provided with their final housing production targets in May 2021 and are required by State law to adopt new Housing Elements by January 2023.

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**FOR CITY CLERK ONLY**

Council Meeting: \_\_\_\_\_

Disposition: \_\_\_\_\_

**BACKGROUND:**

**Overview**

Every city and county in California is required to adopt a Housing Element that is a part of their General Plan. The Housing Element is the only part of the General Plan that must be submitted to the State for certification, a process that is performed by the State Department of Housing and Community Development (HCD). Cities without certified Housing Elements face negative consequences, including limited access to State funding and increased vulnerability to costly lawsuits, penalties, and court injunctions. To avoid such consequences, HCD must make a formal determination that the Housing Element fully complies with Government Code requirements, including demonstration that the City is accommodating its “fair share” of the region’s housing needs and is “affirmatively furthering fair housing.”

San Rafael’s current [Housing Element](#) was adopted on January 5, 2015 and was certified by the State on January 23, 2015. The planning period covered by that Housing Element was January 31, 2015 through January 31, 2023. The next Housing Element is due on January 15, 2023 and will cover the period from January 15, 2023 to January 15, 2031. In order to provide sufficient time for data collection and analysis, community engagement, public hearings, responses to State comments, and environmental review, the City has initiated the update process. The timeline allows roughly 10 months to develop a Draft Housing Element and another seven months to go through an iterative process with State reviewers, the Planning Commission, the City Council, and the community to revise, finalize, and adopt the Draft.

The contents of the Housing Element are driven by State law. HCD has developed guidelines for local governments that list the specific data to be collected and analyzed, the research questions to be answered, and the standards that must be met. For example, cities must demonstrate that they are planning for a “wide variety of housing types”. This requires more than an aspirational statement—the City must show (and quantify) that it allows multi-family housing in specific density ranges, allows for emergency shelter “by right” in at least one zoning district, allows mobile and manufactured homes, does not apply special rules for transitional and supportive housing, and has adopted specific zoning requirements and densities that support its policy goals.

The analysis has become more rigorous over time. The policy and program requirements also have become more demanding. In response to the statewide housing crisis, dozens of housing bills have been approved by the legislature in the last few years. Some have included specific policy and program requirements for Housing Elements.

**Regional Housing Needs Allocation**

The driving force behind each community’s Housing Element is the Regional Housing Needs Allocation (RHNA). The RHNA process has been in effect since 1969, when the State legislature mandated that all communities do their “fair share” to meet California’s housing needs, regardless of income. The process has evolved over the last 50 years, with an increasing focus on factors such as equity and sustainability.

The RHNA process begins at the State level. California HCD determines the projected housing need over an eight-year period for each region in California, including the nine-county Bay Area. The need for each region is broken down into four income categories, ensuring that housing is constructed for persons of all economic means. It is then up to the Association of Bay Area Governments (ABAG) in its capacity as the regional Council of Governments to disaggregate the RHNA to the nine counties and 101 cities that comprise the Bay Area.



Ultimately, each city and county is assigned a specific number of units for which it must plan. The city/county is not required to actually construct the units, as this is beyond the financial capacity and traditional role of most local governments. However, local jurisdictions must zone a sufficient amount of land to allow for construction of the allocated units by the private and non-profit sectors. Additionally, local jurisdictions must demonstrate that progress is being made toward their allocation. Cities and counties that are not demonstrating progress toward RHNA requirements must streamline housing developments that include specified percentages of affordable housing and are encouraged to undertake programs to facilitate housing development. Finally, jurisdictions must demonstrate that their plan for accommodating the RHNA does not concentrate low income housing in particular areas and supports broader goals to end segregation and promote fair housing practices.

On June 9, 2020, HCD notified ABAG that the regional housing need for the 2023-2031 period was 441,176 units. The assignment is 2.34 times higher than the need identified for the 2015-2023 period, which was 187,990 units. This reflects the prolonged and sustained effects of Bay Area jobs growing at a faster rate than housing for the last eight years, and the growing affordability gap among Bay Area households.

During Fall 2020, the 441,176 units were allocated to cities and counties with the guidance of a 37-member "Housing Methodology Committee" (HMC) comprised of local government staff, local elected officials, and stakeholders from jurisdictions around the region. Alternative methodologies were explored, and weighting factors were tested so that housing could be directed in a way that achieved regional goals such as equity, mobility, jobs-housing balance, and sustainability.

In October 2020, the HMC voted to accept a methodology that assigned housing units based on the percentage of the region's households that were projected to live in each jurisdiction by 2050. One of the consequences of this methodology is that smaller, suburban communities received much higher allocations than they had in the past, including San Rafael. Whereas the regional total was 2.34 times higher than it was in 2015-2023, the total for individual cities increased by more than 10 times in some cases. More than 50 of the region's cities registered objections to the methodology, either by submitting letters or co-signing letters submitted by coalitions of local governments. Several jurisdictions and organizations also challenged the total Bay Area allocation, arguing that it "double counts" certain components of need, overestimates desired vacancy rates, and does not reflect the impacts of the COVID-19 pandemic.

The ABAG Executive Board voted to finalize the methodology in January 2021. Changes were made to align the RHNA with Plan Bay Area 2050. These changes included reducing the allocations for Santa Clara County and increasing allocations for several cities, including San Rafael. The methodology was submitted to HCD and was formally approved by the State in spring 2021.

Cities and counties were given an opportunity to appeal their RHNA numbers, with a filing deadline of July 9, 2021. A total of 28 local governments appealed, including ten from Marin County; six from Santa Clara County; six from Contra Costa County; three from Alameda County; and three from Sonoma County. The City of San Rafael did not submit an appeal, but did provide a comment letter indicating that any reallocation of units resulting from successful appeals by other cities should not be allocated to San Rafael, since the increase in the City's allocation was already well above the regional average and had already been adjusted upward in December 2020.

Based on past RHNA cycles and recent experience among Southern California jurisdictions, appeals are very rarely granted. In Southern California, which went through their RHNA process in 2020, 50 cities appealed their allocations and only two were granted. Likewise, multiple Bay Area cities appealed their 2015-2023 allocations in 2014, and only three were granted.

San Rafael’s allocation for the previous planning period (2015-2023) was 1,007 units. The allocation approved by ABAG for the upcoming period (2023-2031) is 3,220 units, which represents a 220 percent increase. Marin County, including the unincorporated areas and the 11 cities, saw a much steeper rate of increase. The countywide RHNA was 2,298 units in the last cycle and is 14,405 units in the current cycle, an increase of 526 percent. The cities of Mill Valley, San Anselmo, Larkspur, Corte Madera, Fairfax, and Sausalito all saw increases of over 600 percent. However, in terms of sheer numbers, San Rafael’s increase is the largest among the 11 Marin cities.

ABAG disaggregates the RHNA into four income categories. San Rafael’s 3,220-unit allocation by income level is shown below. The allocation for 2015-2023 is provided for comparison. The combined percentage of need associated with low and very low-income households has increased slightly, from 38.5% of the total in the current cycle to 41.9% in the upcoming cycle.

***Housing Element Assignments for RHNA Cycles 5 and 6***

Income Level	2015-2023	Percent of total	2023-2031	Percent of total
Very Low	240	23.8%	857	26.6%
Low	148	14.7%	492	15.3%
Moderate	181	18.0%	521	16.2%
Above Moderate	438	43.5%	1,350	41.9%
TOTAL	1,007	100.0%	3,220	100.0%

As a benchmark, in 2021 a household of four earning less than \$91,350 in Marin County would be considered “very low income” and a household of four earning between \$91,350 and \$146,350 would be considered “low” income. These income thresholds are used by the state to determine eligibility for various state and federal housing assistance programs.

In general, the “above moderate” income units correspond to market-rate single family homes, townhomes, and condominiums. “Moderate income” units typically include market-rate rental apartments. “Low income” units include a mix of units that are “affordable by design” such as accessory dwelling units (ADUs) and units that are income restricted and subsidized. “Very low” income units are typically subsidized but may also include junior ADUs and studios. A subset of very low-income units serves extremely low-income residents and includes single room occupancy hotels (SROs), emergency shelter, and transitional and supportive housing.

The allocation of 3,220 housing units would require the construction of roughly 400 units a year, which is a far greater rate of construction than San Rafael has seen in the last 20 years. While current State law does not penalize the City if this target is not met, there is increasing pressure from the State to achieve more rapid housing construction at all price points. There are also new requirements requiring each city to demonstrate good faith efforts to produce housing equitability and for all income groups.

**Sites Analysis**

In 2017 the State adopted a requirement (SB 166) that cities make “no net loss” findings in order to approve market-rate housing projects on sites that were counted in the Housing Element as available to meet affordable housing needs. This effectively requires that cities plan for a “buffer” of potential housing opportunity sites to ensure they can meet their RHNA throughout the planning period. Therefore, while the City’s RHNA allocation is 3,220 housing units, the City will need to identify capacity for closer to 4,000 housing units due to the “no net loss requirement.”

General Plan 2040 identified housing sites with the capacity for approximately 4,400 units. This includes roughly 2,200 units in downtown San Rafael. As a result, large-scale rezoning is not anticipated as part of this update. Small zoning map changes and changes to zoning standards are possible, however.

The City will need to prepare a detailed inventory of the Housing Opportunity Sites and demonstrate that these sites are viable to meet the RHNA. Zoning provisions for by-right development may be needed on sites that are being carried over from the 2015-2023 Housing Element. New incentives and bonuses may be considered for small sites and sites with one or more development constraints.

## **Content of the Current Housing Element**

### *2015-2023 Housing Element*

The 2015-2023 Housing Element consists of two volumes—a policy document and a technical appendix. The policy document includes goals, policies, and implementation programs and relationship to other General Plan elements. This is followed by short descriptions of the City's past housing production efforts, local housing needs, and key recommendations. Some of the key policies in the 2015-2023 Housing Element include:

- Protect the existing housing stock
- Distribute affordable housing throughout the City
- Create regulatory incentives for affordable housing (including allowing innovative approaches to developing affordable housing; providing local funding of affordable housing; and allowing certain types of housing by right)
- Prevent discrimination
- Encourage senior housing and housing for people with special needs
- Support infill near transit
- Maintain inclusionary housing requirements
- Encourage accessory dwelling units
- Collaborate with other Marin jurisdictions to meet housing needs
- Encourage public participation in housing matters
- Maintain an adequate supply of housing sites to meet the RHNA
- Encourage energy conservation (to reduce home energy costs)

The technical appendix contains the underlying data and analysis that supports the policies and programs, including sections that correspond to specific Government Code requirements. The technical appendix includes six chapters, as follows:

1. Needs Assessment: This section provides detailed tables and narratives on San Rafael's demographics, including age, household size, household type, persons with disabilities, unhoused residents, housing costs, employment and income, and percent of income spent on housing. It also includes detailed information on the City's housing stock, including rate of construction (units per year), housing type and tenure (rent/own), housing age and condition, and code enforcement issues. All of this information will be updated as part of the upcoming process.
2. Housing Constraints: This section evaluates governmental and non-governmental constraints to housing production. It evaluates zoning and land use regulations, building codes, and requirements for particular housing types, such as emergency shelter, Accessory Dwelling Units (ADUs), and transitional housing. It also evaluates local fees, permitting costs, processing time, and special requirements such as inclusionary zoning. Non-governmental constraints include land and construction costs, financing availability,

community opposition, and similar factors. San Rafael has researched these issues extensively in the last few years and will build on the feedback provided by the development community and others in this analysis.

3. **Sites Inventory:** This section demonstrates that the City has adequate capacity to meet its RHNA. It quantifies projects that are under construction or entitled, and then evaluates the capacity of residential sites, mixed use sites, and commercial sites where housing is allowed. It also demonstrates the adequacy of these sites to accommodate housing for lower income households. The sites inventory also estimates the potential for ADU development. A new inventory of Housing Opportunity Sites will be including in the 2023-2031 Housing Element update.
4. **Housing Resources:** This section evaluates the resources available to support affordable housing production, including financial resources and administrative resources. It also describes energy conservation programs. This information will be updated for the 2023-2031 Housing Element update.
5. **Evaluation of Accomplishments Under Adopted Housing Element:** This section describes the programs that were implemented under the prior (2009-2014) Housing Element and evaluates the effectiveness of that Element. A similar exercise will be conducted as part of the analysis phase of the 2023-2031 Housing Element update.
6. **Public Participation:** This section describes outreach efforts conducted over the course of the Housing Element update project, including the organizations, groups and individuals on the City's meeting notification list.

### ***Proposed 2023-2031 Housing Element***

The updated 2023-2031 Housing Element will likely follow a similar format as the 2015-2023 Housing Element with the technical appendix affixed separately. This will allow the policy document (which is currently 30 pages) to be "inserted" as a chapter of General Plan 2040, while the technical appendix will remain "Appendix B" of General Plan 2040, as it is today. In addition to policies mentioned above, the 2023-2031 Housing Element will likely also include an analysis of: integration and segregation patterns and trends; racially or ethnically concentrated areas of poverty; disparities in access to opportunity; and disproportionate housing needs within the jurisdiction, including displacement risk. Additional policies related will likely be included as a result of this analysis.

### **New Requirements**

Over the past 6 years (since adoption of the 2015-2023 Housing Element) the state has adopted a number of bills related to housing and Housing Element requirements. The 2023-2031 Housing Element will need to consider requirements established by the following bills:

AB 686 (2018) requires specific Housing Element policies and programs to "Affirmatively Further Fair Housing." It also requires an analysis of fair housing enforcement, segregation patterns, displacement risks, and racial concentration of poverty. It requires that an equity lens be applied to the selection of Housing Opportunity Sites, to ensure that cities do not perpetuate past patterns of concentrating lower income housing in particular areas.

AB 1397 (2017) places new limits on a city's ability to continue identifying the same sites for meeting the lower income RHNA from one planning period to the next. Specifically, non-vacant sites identified in the last housing element, and vacant sites identified in the last two housing elements may only be counted

toward the lower income RHNA if they are zoned at densities of at least 30 units per acre and are zoned to allow “by right” development for projects in which at least 20 percent of the units are affordable to lower income households. In this case, “by right” development does not preclude Planning Commission or Design Review Board hearings, but it does mean that a proposed project cannot be denied if it meets the objective standards that apply within the applicable zoning district. New requirements also make it more difficult to count sites that are smaller than 21,780 square feet (e.g., one-half acre) or larger than 10 acres.

SB 330 (the Housing Crisis Act of 2019) includes requirements for expediting development approval and limiting zoning changes that would reduce density or make housing more difficult to build. It effectively prohibits residential “downzoning” through Jan 1, 2025.

SB 1486/ AB 1255 requires the City to include an inventory of publicly owned surplus land in the Housing Element, including property that may be sold over the planning period.

SB 6 identifies specific variables that must be included in the Housing Opportunity Sites inventory. This information is being used by HCD to create a consistent statewide data base of housing opportunity sites.

AB 1763 allows 100% affordable housing projects located within ½ mile of transit to be taller and denser.

AB 139 amends the method for determining whether the City has adequate capacity for emergency shelters in the Housing Element. It also requires that the parking requirements for emergency shelters be based on the number of staff rather than the number of beds.

SB 13, AB 68, AB 587, AB 670, AB 671, and AB 881 all address Accessory Dwelling Units and Junior Accessory Dwelling Units. ADU programs in the existing Housing Element will need to be checked for conformity.

AB 2162 streamlines requirements for supportive housing, which may require an action program in the Housing Element to amend the Zoning Code.

AB 879 expands the required analysis of housing constraints.

AB 72 allows HCD to find a city out of compliance with State housing law at any time (this has implications for submittal of the Annual Progress Report required under State law).

#### *New Safety Element Requirements*

Since 2017, the State has required specific amendments to the Safety Element to be made concurrently with amendments to any part of the General Plan. This includes amendments to address climate resilience (SB 379), fire hazards (SB 1241), and consistency with the Local Hazard Mitigation Plan (AB 2140). As a result, most cities in the Bay Area are updating their Safety Elements as part of their Housing Element updates. Because San Rafael just updated its General Plan, these requirements have already been satisfied.

However, during the final year of the General Plan update, the legislature passed AB 747 and SB 99, both of which have implications for the City’s newly adopted Safety Element. AB 747 requires cities to identify evacuation routes and their capacity, safety, and viability under different emergency scenarios. This is in response to the Camp Fire (Paradise) in 2018. The requirement also applies to the Local Hazard Mitigation Plan, which is updated every five years.

SB 99 requires cities to update their Safety Elements concurrently with the Housing Element in order to identify every residential development in a designated “hazard area” within the city that has less than two emergency evacuation routes. This includes parcels in the Wildland Urban Interface (WUI) areas with only one means of ingress and egress.

As part of the Housing Element Update, San Rafael will need to update its Safety Element to address these two new requirements. City staff from the Community Development Department, Fire Department, and Department of Public Works will collaborate together to update the Safety Element.

### **Community Engagement**

Like the General Plan Update, the Housing Element is subject to Government Code requirements to provide opportunities for public input. The requirements are more prescriptive for the Housing Element, since the Housing Element’s focus is on meeting the needs of lower income residents, many of whom have historically been under-represented. Part of “affirmatively furthering fair housing” requires cities to go beyond traditional outreach methods and work closely with community partners and trusted messengers in our historically under-represented neighborhoods to develop customized outreach approaches toward achieving a truly inclusive process. This additional effort is also consistent with the philosophy of the recently adopted Equity, Diversity, and Inclusion Element of San Rafael General Plan 2040.

Of particular interest is the engagement of non-English speaking households and organizations representing those facing particular housing challenges, including unhoused residents, persons at risk of experiencing homelessness, and persons with disabilities. One of the early tasks in the Housing Element update will be to develop an inclusive public engagement strategy that includes input from community partners and non-profits, affordable housing developers, supportive service providers, housing advocates, extremely low-income residents, and fair housing interests. Staff is also planning a specific Spanish language outreach and engagement program in collaboration with Canal Alliance. This will include retaining a bilingual outreach consultant with expertise in equity issues.

The City has historically created working groups and/or steering committees when preparing long-range planning documents such as the Housing Element. For example, General Plan 2040 was guided by a 24-member Steering Committee and the Climate Change Action Plan included a 20-member Climate Action Working Group. Staff is proposing creating a Working Group with 12 members to provide guidance on the Housing Element. This is discussed below in the Analysis section.

### **ANALYSIS:**

#### **Schedule**

The 2023-2031 Housing Element must be adopted by January 15, 2023. However, preparation of this document requires an intermediate step in which HCD reviews a “working draft” prior to the adoption hearings. This allows HCD to provide comments to the City which can be addressed before adoption, thereby ensuring certification. As such, the City has roughly 10 months to complete a working draft. Therefore, staff expects the 2023-2031 Housing Element schedule to be:

- August 2021 through January/February 2022 - Preparation of community outreach and engagement, technical analysis, sites analysis and working with HCD to ensure State requirements are being met. At least one community workshop will be convened, and multiple smaller meetings with groups of stakeholders are planned. Grass roots outreach to lower income households, especially renters, is a critical part of this process. Staff will also be soliciting input from housing advocates, tenant groups, the development, real estate, and business communities,

neighborhood groups, environmental groups, and social service providers, including organizations serving unhoused residents.

- Early 2022 – Evaluate accomplishments from the 2015-2023 Housing Element; New or amended policies and programs will be assembled for discussion
- June 2022 - “Working Draft” Housing Element will be completed
- July 2022 - Working Draft presented to the Planning Commission (PC) and the City Council (CC) for technical review and comments
- August 2022 - Housing Element reviewed by HCD
- September 2022 - Housing Element revised based on HCD comments
- October through December 2022 - Planning Commission and City Council hearings and final adoption

### **Housing Element Working Group**

Staff seeks City Council direction on the creation of a 12-member Housing Element Working Group. Staff recommends the Working Group include one member each from the following types of organizations:

- Housing advocacy organization
- Homeless-service advocacy organization
- Tenants’ rights organization
- Senior housing organization
- Environmental advocacy group
- Spanish-speaking community advocate
- Non-profit affordable housing representative
- For-profit residential developer/ broker
- Business community representative
- Neighborhood organization representative
- Planning Commissioner
- One at large member

Members would be solicited by reaching out to each organization and asking for a nominee. Due to the limited number of meetings, alternates would not be designated. The meetings would be open to the public and include an opportunity for public comment. The format of the meetings (Zoom vs in-person) would be determined based on the County health protocols in effect at the time of each meeting.

The Working Group would be convened approximately six (6) times, or roughly every two months. Their role would be to review draft policy and program language and to provide guidance to staff reflecting their insights as representatives of a particular organization or as practitioners in the housing field. Some of the members should be technical experts in the housing field and will be asked to share their expertise with the group and provide feedback to staff on proposed housing programs.

Working Group members representing specific organizations would be asked to report back to those organizations and serve as conduits for communication during the project. Working Group members would also spread the word about community engagement opportunities to the broader public.

Staff seeks City Council confirmation of staff’s recommendations regarding the number of Working Group members, the role of the Working Group, and the interests and organizations represented.

### **ENVIRONMENTAL REVIEW:**

As a General Plan amendment, the Housing Element update is subject to the California Environmental Quality Act (CEQA). However, staff does not envision a full Environmental Impact Report (EIR). Because

the City just completed an EIR for the General Plan 2040 and Downtown Precise Plan, the impacts of adding 3,220 units that need to be accounted for in the 2023-2031 Housing Element have already been evaluated.

The appropriate form of CEQA review for the 2023-2031 Housing Element is an Addendum to the General Plan EIR. The Addendum would determine if the findings identified in the General Plan EIR would be changed by the policies and programs in the new Housing Element. In the event the Housing Element proposes substantial changes to the General Plan Map and/or allowable densities, a higher level of CEQA review could be required. As with the General Plan EIR, environmental review will still be required for individual projects proposed after the 2023-2031 Housing Element is adopted.

**COMMUNITY OUTREACH:**

The August 16<sup>th</sup> City Council public hearing was advertised in the Marin Independent Journal and also publicized with a postcard notice to stakeholder, agencies, and special interest groups.

**FISCAL IMPACT:**

The Housing Element is a policy document and does not have a direct fiscal impact on the city. Future programs developed as a result of Housing Element adoption could have fiscal impacts by identifying programs requiring funding. Other 2023-2031 Housing Element programs may have positive fiscal impacts by identifying new revenue sources or improving the City's eligibility for grants and other funds. Conversely, the absence of a certified Housing Element would have adverse fiscal impacts, as the City would become ineligible for numerous state grants and funds.

**RECOMMENDED ACTION:**

1. Accept the report and provide feedback to staff