

Agenda Item 5.b

ORDINANCE NO. 1999

**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

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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.



Kate Colin, Mayor

ATTEST:



LINDSAY LARA, City Clerk

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The foregoing Ordinance No. 1999 was read and introduced at a regular meeting of the City Council of the City of San Rafael on Monday, the 16th day of August 2021, and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Hill, Llorens Gulati & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: Bushey, Kertz

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 13th day of September 2021.



LINDSAY LARA, City Clerk

SUMMARY OF ORDINANCE NO. 1999

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADDING CHAPTER 2.22 TO THE SAN RAFAEL MUNICIPAL CODE, ENTITLED "BACKGROUND CHECKS"

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1999, which will add new provisions to the San Rafael Municipal Code authorizing the City of San Rafael to conduct criminal background checks in certain situations.

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

Ordinance No. 1999 will add new Chapter 2.22 to the San Rafael Municipal Code entitled "Background Checks." The California Penal Code authorizes a city, for purposes of employment or licensing, to submit fingerprints to the California Department of Justice, and through the state to the U.S. Department of Justice, with a request to run a check to see whether a person has a criminal history. By this ordinance, the San Rafael City Council would formally authorize the City's Police Department to request that background check for an applicant for employment with the City of San Rafael before the City finally accepts the applicant for employment. In addition, the ordinance would authorize a similar background check for persons applying for certain City licenses, permits, or certifications, where the application process includes a background check for criminal activity prior to issuance of the license/permit.

Copies of Ordinance No. 1999 will be available for public review as of Friday, August 20, 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 the City Clerk at (415) 485-3066 or the Department of Public Works at (415) 485-3385 for information.

LINDSAY LARA
San Rafael City Clerk
Dated: 08/20/21