



AGENDA

SAN RAFAEL CITY COUNCIL – TUESDAY, FEBRUARY 22, 2022

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2022-02-22>

Watch on YouTube: www.youtube.com/cityofsanrafael

Listen by phone: (669) 900-9128

ID: 899-2635-9885#

One Tap Mobile: US: +16699009128,,89926359885#

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Assembly Bill 361, the City of San Rafael is offering teleconference without complying with the procedural requirements of Government Code section 54953(b)(3). This meeting will be held virtually using Zoom and is being streamed to YouTube at 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.
- 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 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

1. None.

CLOSED SESSION

2. Closed Session: - None.

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, February 7, 2022 (CC)

Recommended Action - Approve minutes as submitted

b. **Use of Teleconferencing for Public Meetings During State of Emergency**

Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for Continued Use of Teleconferencing to Hold Public Meetings of the San Rafael City Council and City Boards and Commissions During the Continuing State of Emergency Relating to the COVID-19 Pandemic (CA)

Recommended Action - Adopt Resolution

c. **Amend City Council Appointments to Committees**

Approve the Appointment of Mayor Kate Colin and Councilmember Maribeth Bushey to Serve on the Marin County Council of Mayors and Councilmembers City/County Services Subcommittee for 2022 (CC)

Recommended Action - Approve Appointment

d. **The Neighborhood at Los Gamos Ordinance**

Ordinance No. 2003: An Ordinance of the City of San Rafael Approving a Zone Change (ZC 20-002) from Planned District - Hillside Development Overlay District (PD-H) and Residential - Hillside Development Overlay District (R2A-H) to Planned Development District (PD) (CD)

Recommended Action - Approve Final Adoption of Ordinance No. 2003

e. **Annual Audit of Federal Grant Expenditures**

Single Audit Report for the Year Ended June 30, 2021 (Fin)

Recommended Action - Accept report

f. **SB 1383 Local Assistance Grant**

Resolution Authorizing Submittal of Applications for All CalRecycle Grant and Payment Programs and Related Authorizations for Which the City of San Rafael is Eligible (CM)

Recommended Action - Adopt Resolution

g. **Annual Measure G Oversight Committee Report**

Measure G Cannabis Business Tax Oversight Committee Report for Fiscal Year 2020-2021 (ED)

Recommended Action - Accept report

h. **Land and Water Conservation Fund Application for Pickleweed Park Enhancement Project**

Resolution Approving the Application for Land and Water Conservation Fund for the Pickleweed Park Enhancement Project (LR)

Recommended Action - Adopt Resolution

PUBLIC HEARINGS AT 7:30 PM:

6. Public Hearings:

a. **2021-2022 City Council Redistricting Process**

Third Public Hearing on Existing Council District Lines and Possible Changes (CA)

Recommended Action - Accept report

b. **Amendment to the San Rafael Municipal Code Regarding Recycling of Organic Waste to Comply with Senate Bill 1383**

Consideration of an Ordinance Amending the San Rafael Municipal Code to Repeal Chapter 9.19 – Refuse and Recycled Materials Collection and Disposal and Replace It with New Chapter 9.19 – Solid Waste Collection and Disposal and Edible Food Recovery (CM)

Recommended Action - Pass Ordinance to print

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 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, FEBRUARY 7, 2022

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2022-02-07>

Watch on YouTube: www.youtube.com/cityofsanrafael

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ID: 817-3692-0337#

One Tap Mobile: US: +16699009128,,81736920337#

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

Absent: None

Also Present: Assistant City Manager Cristine Alilovich
City Attorney Robert Epstein
City Clerk Lindsay Lara

OPEN SESSION

1. None.

CLOSED SESSION

2. Closed Session: None

Mayor Kate called the meeting to order at 7:00 p.m. and invited City Clerk Lindsay Lara to call the roll. All members of the City Council were present.

Mayor Kate provided opening remarks, which included a land acknowledgement, gratitude to City Staff, Chinese New Year and Black History Month.

City Clerk Lindsay Lara informed the community that the meeting would be recorded and 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

- Lori Schifrin, addressed the City Council regarding statistics requested on the Third Street Corridor at the January 18, 2022 Council Meeting.

CITY MANAGER'S REPORT:

3. City Manager's Report:

Assistant City Manager Cristine Alilovich announced:

- Potential upcoming strike with Golden Gate Transit Union Local ATU 1575
- Community Conversation events update

Mayor Kate invited public comment; however, there was none.

COUNCILMEMBER REPORTS:

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

4. Councilmember Reports:

- Councilmember Kertz reported on MCCMC Homeless Committee, Terra Linda Homeowners' Association, Marin Wildfire Prevention Authority and Mont Marin Neighborhood meetings.
- Councilmember Bushey reported on Loch Lomond Oversight Committee and San Rafael Sanitation meetings. She announced her upcoming District 3 Community Conversation on February 9, at 5:30 p.m.
- Councilmember Llorens Gulati reported on Climate Action Plan Forum, East San Rafael Parking Task Force, Canal Neighborhood Community-Based Transportation Plan, and MCCMC Climate Action Committee meetings.
- Councilmember Hill reported on a City/School Liaison Committee meeting.
- Mayor Kate reported on SMART, Marin Economic Recovery Committee, Gun Safety Collaborative, BayWAVE, Transportation Authority of Marin and Marin Transit meetings.

Mayor Kate invited public comment; however, there was none.

CONSENT CALENDAR:

Mayor Kate invited public comment.

Speaker: Name Withheld

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

5. Consent Calendar Items:

- Approval of Minutes**
Approve Minutes of City Council / Successor Agency Regular Meeting of Tuesday, January 18, 2022 (CC)
Approved minutes as submitted

- b. **Use of Teleconferencing for Public Meetings During State of Emergency Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for Continued Use of Teleconferencing to Hold Public Meetings of the San Rafael City Council and City Boards and Commissions During the Continuing State of Emergency Relating to the COVID-19 Pandemic (CA)**
Resolution 15023 - Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for Continued Use of Teleconferencing to Hold Public Meetings of the San Rafael City Council and City Boards and Commissions During the Continuing State of Emergency Relating to the COVID-19 Pandemic
- c. **Fire Station 54 & 55 - Inspection of Record Services Resolution Authorizing the City Manager to Execute a Professional Services Agreement with 4LEAF, Inc. for Inspection of Record Services Related to Phase 2 Essential Facilities Projects - Fire Station 54 and 55 In the Amount of \$126,100 (PW)**
Resolution 15024 - Resolution Authorizing the City Manager to Execute a Professional Services Agreement with 4LEAF, Inc. for Inspection of Record Services Related to Phase 2 Essential Facilities Projects - Fire Station 54 and 55 In the Amount of \$126,100
- d. **FY 2021-22 Vehicle Replacement Resolution Authorizing the City Manager to Purchase Five (5) Patrol Cars for the Police Department and Two (2) Parking Enforcement Vehicles for the Parking Services Department in a Total Amount Not to Exceed \$476,805 (PW)**
Resolution 15025 - Resolution Authorizing the City Manager to Purchase Five (5) Patrol Cars for the Police Department and Two (2) Parking Enforcement Vehicles for the Parking Services Department in a Total Amount Not to Exceed \$476,805
- e. **PG&E Easement Required for Fire Station 54 Resolution Authorizing the City Manager to Execute a Grant of Easement Deed for Public Utility Purposes to Pacific Gas and Electric Company for the City's Fire Station 54 Project (PW)**
Resolution 15026 - Resolution Authorizing the City Manager to Execute a Grant of Easement Deed for Public Utility Purposes to Pacific Gas and Electric Company for the City's Fire Station 54 Project
- f. **Americans with Disabilities Act (ADA) Improvements at Albert Park Ball Field Resolution Awarding and Authorizing the City Manager to Execute a Construction Agreement for Installation of a Prefabricated Restroom Building and Access Ramp at Albert Park Ball Field, City Project No. 11372, to McNabb Construction Inc. in the Amount of \$184,884, and Authorizing Contingency Funds in the Amount of \$20,116, For a Total Appropriated Amount of \$205,000 (PW)**
Resolution 15027 - Resolution Awarding and Authorizing the City Manager to Execute a Construction Agreement for Installation of a Prefabricated Restroom Building and Access Ramp at Albert Park Ball Field, City Project No. 11372, to McNabb Construction Inc. in the Amount of \$184,884, and Authorizing Contingency Funds in the Amount of \$20,116, For a Total Appropriated Amount of \$205,000
- g. **Francisco Boulevard East Resurfacing Project Accept Completion of the Francisco Boulevard East Resurfacing Project (City Project No. 11389), and Authorize the City Clerk to File the Notice of Completion (PW)**
Accepted Completion and authorized City Clerk to file Notice of Completion

- h. **Temporary Street Closure to Support Voces Del Canal Resolution Authorizing Alto Street Closure on February 26, 2022 to Support Voces Del Canal to Host an Outdoor Photography Exhibit (PW)**
Resolution 15028 - Resolution Authorizing Alto Street Closure on February 26, 2022 to Support Voces Del Canal to Host an Outdoor Photography Exhibit

SPECIAL PRESENTATIONS

6. Special Presentations:

- a. Presentation of Proclamation Supporting Black History Month (HR)

Mayor Kate presented the proclamation.

Sylvia Gonzalez, HR Operations Manager provided comments.

Mayor Kate invited public comment; however, there was none.

PUBLIC HEARINGS

7. Public Hearings:

- a. **[The Neighborhood at Los Gamos, a Proposed Mixed-Use Project Consisting of Residential and Commercial Land Uses on the Property at the Southerly Terminus of Los Gamos Drive North of Oleander Drive; Christopher Hart, Applicant and Property Owner](#)**
Adopt Resolutions and Pass Ordinance to Print Related to The Neighborhood at Los Gamos Proposed Mixed-Use Project (CD)

Alicia Giudice, Community Development Director introduced Sean Kennings, Project Planner who presented the Staff Report.

Staff responded to questions from Councilmembers.

Applicant Team gave a presentation.

Applicant Team and Staff responded to questions from the Councilmembers.

Mayor Kate invited public comment.

Speakers: Michael McLennan, David Moller, Marin/Sonoma Building Electrification Squad, Warren Wells, Marin County Bicycle Coalition, Linda Jackson, Sustainable San Rafael, Linda Haumann, Marin Organizing Committee, Jeff Bialik, Housing Crisis Action Marin Steering Committee, Cece Osborn, Andrew Ward, Marin YMCA, Bob Pendoley, Marin Environmental Housing Collaborative (MEHC), Brian Dempsey, Mike Pelfini, San Rafael Chamber of Commerce, Steve Harris, Carpenters Local #35, Becky Rosales, Miller Creek School District, Marcy, John Reynolds, Sunny Lee

Applicant Team and Staff responded to public comment.

Councilmembers provided comments.

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

- i. Resolution Adopting an Initial Study/Mitigated Negative Declaration and Approving a Mitigation Monitoring and Reporting Program (IS20-004);

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

Resolution 15029 - Resolution Adopting an Initial Study/Mitigated Negative Declaration and Approving a Mitigation Monitoring and Reporting Program (IS20-004)

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

- ii. Resolution Approving a General Plan Amendment (GPA 20-001) from Hillside Resource Residential to Neighborhood Commercial Mixed Use;

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

Resolution 15030 - Resolution Approving a General Plan Amendment (GPA 20-001) from Hillside Resource Residential to Neighborhood Commercial Mixed Use

Councilmember Kertz moved and Councilmember Llorens Gulati seconded to pass Ordinance No. 2003 to print.

- iii. Ordinance Approving a Zone Change (ZC 20-002) from Planned District - Hillside Development Overlay District (PD-H) and Residential - Hillside Development Overlay District (R2A-H) to Planned Development District (PD);

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

Passed to print Ordinance No. 2003 Approving a Zone Change (ZC 20-002) from Planned District - Hillside Development Overlay District (PD-H) and Residential - Hillside Development Overlay District (R2A-H) to Planned Development District (PD)

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

- iv. Resolution Approving Environmental and Design Review (ED-20-058) and a Vesting Tentative Parcel Map (TS20-002)

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

Resolution 15031 - Resolution Approving Environmental and Design Review (ED-20-058) and a Vesting Tentative Parcel Map (TS20-002)

OTHER AGENDA ITEMS:

8. Other Agenda Items:

a. **Third Street Rehabilitation Project**

Adopt Resolutions Related to the Third Street Rehabilitation Project, City Project No. 11315 (PW)

Councilmember Hill recused himself from this item and left the meeting at 9:12 p.m.

City Attorney Rob Epstein provided comments.

Bill Guerin, Public Works Director introduced April Miller, Assistant Public Works Director who presented the Staff Report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

Speakers: Amy Likover, Federation of San Rafael Neighborhoods, Wendi Kallins, Safe Routes to Schools, Name Withheld, Arlin Benavidas, Sustainable San Rafael, Bill Carney, Sustainable San Rafael, Name Withheld, Judy Schreiber, Marin Group Sierra Club, Warren Wells, Marin County Bicycle Coalition, Maren DeGraff, John Reynolds, Eric Schmitt, Charles Pierce, Cece Osborn, Victoria DeWitt, Annika Osborn, Jean Severinghaus, Sunny Lee

Staff responded to public comment.

Councilmembers provided comments.

Staff provided comments.

Councilmembers provided further comments.

Staff responded to further questions from the Councilmembers.

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

- i. Resolution Awarding and Authorizing the City Manager to Execute the Construction Agreement for Third Street Rehabilitation Project to Ghilotti Bros, Inc., in the Amount of \$18,248,707.54 and Authorizing Contingency Funds in the Amount of \$2,551,292.46 for a Total Appropriated Amount of \$20,800,000;

AYES: Councilmembers: Bushey, Kertz & Mayor Kate

NOES: Councilmembers: Llorens Gulati

ABSENT: Councilmembers: Hill

Resolution 15032 - Resolution Awarding and Authorizing the City Manager to Execute the Construction Agreement for Third Street Rehabilitation Project to Ghilotti Bros, Inc., in the Amount of \$18,248,707.54 and Authorizing Contingency Funds in the Amount of \$2,551,292.46 for a Total Appropriated Amount of \$20,800,000

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

- ii. Resolution Approving and Authorizing the City Manager to Execute an Amendment to the Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc. for Engineering Construction Support Services Associated with Third Street Rehabilitation Project, in the Amount of \$117,000 for a New Total Professional Services Agreement of \$1,042,782;

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

Resolution 15033 - Approving and Authorizing the City Manager to Execute an Amendment to the Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc. for Engineering Construction Support Services Associated with Third Street Rehabilitation Project, in the Amount of \$117,000 for a New Total Professional Services Agreement of \$1,042,782

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

- iii. Resolution Approving and Authorizing the City Manager to Execute a Reimbursement Agreement with the San Rafael Sanitation District for Bid Schedule B of the Construction Contract, Construction Management, and Material Testing Services for the Third Street Rehabilitation Project;

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

Resolution 15034 - Resolution Approving and Authorizing the City Manager to Execute a Reimbursement Agreement with the San Rafael Sanitation District for Bid Schedule B of the Construction Contract, Construction Management, and Material Testing Services for the Third Street Rehabilitation Project

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

- iv. Resolution Approving and Authorizing the City Manager to Execute a Reimbursement Agreement with the Marin Municipal Water District for Bid Schedule C of the Construction Contract and Construction Management for the Third Street Rehabilitation Project

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

Resolution 15035 - Resolution Approving and Authorizing the City Manager to Execute a Reimbursement Agreement with the Marin Municipal Water District for Bid Schedule C of the Construction Contract and Construction Management for the Third Street Rehabilitation Project

Councilmember Hill rejoined the meeting at 10:34 p.m.

SAN RAFAEL SUCCESSOR AGENCY:

1. Consent Calendar: - None.

ADJOURNMENT:

Mayor Kate adjourned the meeting at 10:34 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2022

KATE COLIN, Mayor

DRAFT



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Attorney

Prepared by: Lisa Goldfien,
Assistant City Attorney

City Manager Approval: _____

TOPIC: USE OF TELECONFERENCING FOR PUBLIC MEETINGS DURING STATE OF EMERGENCY

SUBJECT: RESOLUTION PURSUANT TO ASSEMBLY BILL 361 MAKING FINDINGS AND CONFIRMING THE NEED FOR CONTINUED USE OF TELECONFERENCING TO HOLD PUBLIC MEETINGS OF THE SAN RAFAEL CITY COUNCIL AND CITY BOARDS AND COMMISSIONS DURING THE CONTINUING STATE OF EMERGENCY RELATING TO THE COVID-19 PANDEMIC

RECOMMENDATION:

Adopt the resolution pursuant to Assembly Bill 361 making findings and confirming the need for continued use of teleconferencing to hold public meetings of the San Rafael City Council and City boards and commissions during the continuing state of emergency relating to the COVID-19 pandemic

BACKGROUND:

The Ralph M. Brown Act ("Brown Act") requires that except as specifically provided, "meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body". (Gov. Code §54953(a).) For many years, the Brown Act has authorized members of a local agency's legislative body to attend a public meeting by teleconference in compliance with strict procedural requirements. Under Government Code section 54953(b)(3), to use teleconferencing, at least a quorum of the legislative body must participate from locations within agency's boundaries, and the agency must give notice of each teleconference location, post an agenda at each teleconference location, provide for public access to each teleconference location, and allow members of the public to address the Council at each teleconference location.

On March 4, 2020, Governor Newsom declared a statewide state of emergency in connection with the COVID-19 pandemic. Subsequently, on March 18, 2020, the Governor issued Executive Order [No. N-29-20](#) suspending the Brown Act's requirements for in-person meetings and facilitating the use of teleconferencing for public meetings during the state of emergency. The Executive Order authorized public meetings to be held by teleconference only, provided that notice and accessibility requirements are met, members of the public are allowed to observe and address the legislative body at the meeting, and there is a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities. This order has allowed the City Council and the City's other formal boards

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

and commissions to hold their public meetings using teleconferencing technologies, with the requisite notice and public participation; however, the order was due to expire on September 30, 2021, and without legislative action, in-person meetings and the strict teleconferencing procedures of the Brown Act would again be required.

Because the statewide state of emergency continues and the COVID-19 pandemic still poses a health risk for public meetings, on September 16, 2021, Governor Newsom signed into law as an urgency measure Assembly Bill (AB) 361. [AB 361](#) amends the Brown Act provisions governing the use of teleconferencing for public meetings of a local agency's legislative bodies, allowing more liberal teleconferencing requirements to continue during the current and future state-declared emergencies.

ANALYSIS:

Executive Order N-29-20 has now expired, but AB 361 is now in effect, and its amendments to the Brown Act will allow the City to continue to hold its meetings using teleconferencing technology after September 30. Government Code section 54953, as amended by AB 361, now provides in new subsection (e)(1), that during the current and any future state-declared state of emergency, the legislative body of a local agency may use teleconferencing without complying with the procedural requirements of Government Code section 54953(b)(3) in any of three circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Certain additional requirements would apply under the new law, however, including specific requirements as to how public comment must be allowed and heard, with which the City already complies. In addition:

- In the event of a disruption which prevents the City from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.
- If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:
 - The legislative body has reconsidered the circumstances of the state of emergency.
 - Any of the following circumstances exist:

- (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
- (ii) State or local officials continue to impose or recommend measures to promote social distancing.

The resolution before the City Council is intended to comply with the requirement to make specified findings every 30 days. The resolution finds that the state of emergency continues in effect, that measures to promote social distancing are still being imposed by the state and county, and that the state of emergency directly impacts the ability of the public and the members of the City's Council, boards, and commissions to meet safely in person. The proposed resolution confirms the City Council's determination that all public meetings of the City's legislative bodies (the Council and all formal boards and commissions) should continue to be held using only teleconferencing technology.

Staff plans to agendize the same type of resolution at each regular City Council meeting during the pendency of the statewide state of emergency, so that the Council may continue to reconsider these findings at least every 30 days.

The Brown Act amendments adopted by AB 361 will be operative until January 1, 2024, and will then expire unless extended by new legislation.

FISCAL IMPACT:

There is no fiscal impact associated with the adoption of the attached resolution.

OPTIONS:

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

1. Adopt the resolution as proposed.
2. Adopt a modified resolution.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt the resolution pursuant to Assembly Bill 361 making findings and confirming the need for continued use of teleconferencing to hold public meetings of the San Rafael City Council and City boards and commissions during the continuing state of emergency relating to the COVID-19 pandemic.

ATTACHMENTS:

1. Resolution

RESOLUTION NO.

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL PURSUANT TO ASSEMBLY BILL 361
MAKING FINDINGS AND CONFIRMING THE NEED FOR CONTINUED USE OF
TELECONFERENCING TO HOLD PUBLIC MEETINGS OF THE SAN RAFAEL CITY COUNCIL
AND CITY BOARDS AND COMMISSIONS DURING THE CONTINUING STATE OF
EMERGENCY RELATING TO THE COVID-19 PANDEMIC**

WHEREAS, on March 4, 2020 Governor Newsom issued a proclamation pursuant to Government Code Section 8625 declaring a state of emergency in California due to the COVID-19 pandemic; and

WHEREAS, the Ralph M. Brown Act (Gov. Code §§ 54950 et seq.) (hereafter, the “Brown Act”) provides in Government Code section 54953 that “all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided by this chapter”; and

WHEREAS, Government Code section 54953(b)(3) permits the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law, subject to specified procedural requirements including, but not limited to, the posting of agendas at all teleconference locations, the opportunity for members of the public to address the legislative body directly at each teleconference location, and that at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the legislative body exercises jurisdiction; and

WHEREAS, Government Code section 54953(e), added by Assembly Bill 361 effective September 16, 2021, provides, in section 54953(e)(1), that during a state of emergency proclaimed pursuant to Government Code section 8625, the legislative body of a local agency may hold a meeting using teleconferencing without complying with the procedural requirements of section 54953(b)(3), provided that the legislative body complies with the requirements of section 54953(e)(2); and

WHEREAS, pursuant to Government Code section 54953(e)(3), if a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, then in order to continue to teleconference without compliance with the requirements of section 54953(b)(3), the legislative body shall make specified findings at least every 30 days; and

WHEREAS, the City Council has reconsidered the circumstances of the proclaimed COVID-19-related state of emergency and finds that it remains active; and

WHEREAS, the City Council finds that state and/or local officials continue to impose or recommend measures to promote social distancing, as follows:

- a. The July 28, 2021 California Department of Public Health Guidance for the Use of Face Coverings recommending universal masking indoors statewide to promote social distancing is still in effect; and

- b. The August 2, 2021 Marin County Department of Public Health order requiring all people to wear masks in public indoor settings to promote social distancing is still in effect; and

WHEREAS, the City Council finds that the state of emergency continues to directly impact the ability of the members of the City Council and other City boards and commissions to meet safely in person;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Rafael that in order to protect the safety of the members of the public, the City Council and all City boards and commissions, for the 30 days following adoption of this resolution, public meetings of the City's legislative bodies shall continue to be held using teleconferencing technology in compliance with the requirements of Government Code section 54953(e)(2) and all other applicable laws.

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 Tuesday, the 22nd day of February 2022, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Lindsay Lara, City Clerk



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Clerk's Office

Prepared by: Lindsay Lara, City Clerk

City Manager Approval: _____

TOPIC: AMEND CITY COUNCIL APPOINTMENTS TO COMMITTEES

SUBJECT: APPROVE THE APPOINTMENT OF MAYOR KATE COLIN AND COUNCILMEMBER MARIBETH BUSHEY TO SERVE ON THE MARIN COUNTY COUNCIL OF MAYORS AND COUNCILMEMBERS CITY/COUNTY SERVICES SUBCOMMITTEE FOR 2022

RECOMMENDATION:

Approve the appointment of Mayor Kate Colin and Councilmember Maribeth Bushey to serve on the Marin County Council of Mayors and Councilmembers City/County Services Subcommittee for 2022.

BACKGROUND:

Each year, the City Council reviews a list of appointments ("City Council Appointments") to various local and regional boards, commissions, and committees to determine interest in serving as the City's representative. While serving on these local and regional boards, commissions, and committees, appointees represent the City and are granted authority (as identified in the bylaws or rules of a particular board, commission, or committee) to make decisions in the best interest of the City, as well as the general public and interests served by the specific local or regional agency. At the December 18, 2021 meeting, the City Council approved the [2022 City Council Appointments](#) list for the 2022 calendar year.

On January 26, 2022 the Marin County Council of Mayors and Councilmembers (MCCMC) Select Committee met and approved the formation of the MCCMC City/County Services Subcommittee, and the City Council needs to formally approve and amend the 2022 City Council Appointments list and appoint members to serve on the MCCMC Committee.

ANALYSIS:

The City/County Services Subcommittee is a cross-jurisdictional committee to better understand the services provided by the County and how they are funded. Through the work of the committee, we hope to better identify the most strategic opportunities for collaboration that will return the greatest benefit to Marin's residents.

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

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

OPTIONS:

The City Council has the following options to consider relating to this item:

1. Approve the appointment.
2. Approve the appointment as amended.
3. Don't approve the appointment.

RECOMMENDED ACTION:

Approve the appointment of Mayor Kate Colin and Councilmember Maribeth Bushey to serve on the Marin County Council of Mayors and Councilmembers City/County Services Subcommittee for 2022.

ATTACHMENTS:

1. 2022 City Council Appointments List (redlined)

City Council Appointments 2022

Position	2022
Vice Mayor, City Council	Rachel Kertz
San Rafael Sanitation District	Kate Colin (C) Maribeth Bushey Rachel Kertz (Alt)
Central Marin Sanitation Agency <i>(informational only- appointed by SRSD)</i>	Maribeth Bushey
City Rep. to Association of Bay Area Government (ABAG)	Eli Hill
League of California Cities, North Bay Division	Maika Llorens Gulati Maribeth Bushey (Alt)
Sonoma/Marin Area Rail Transit (SMART) <i>(informational only- appointed by TAM)</i>	Kate Colin Maribeth Bushey (Alt)
County Priority-Setting Committee (re Community Development Block Grant Funds)	Eli Hill Rachel Kertz (Alt)
Marin Clean Energy (MCE)	Maika Llorens Gulati Rachel Kertz (Alt)
Transportation Authority of Marin (TAM) Board of Commissioners	Kate Colin Maribeth Bushey (Alt)
Transportation Authority of Marin (TAM) - Safe Routes to Schools Program	Maika Llorens Gulati
Micro Grid Task Force	Eli Hill
BayWAVE	Kate Colin
Age Friendly / Aging Action Liaison	Rachel Kertz
City Council Standing Committees (Noticed public meetings)	
Climate Change Action Plan Quarterly Update Forum	Maika Llorens Gulati
City/School Liaison Committee (Noticed Joint City Council /Schools meeting)	Kate Colin Eli Hill
Economic Development Subcommittee	Maika Llorens Gulati
Library Foundation Board	Maribeth Bushey

Council Liaisons to Boards, Commissions and Committees (Open, noticed meetings)	
ADA Access Advisory Committee	Eli Hill
Bicycle and Pedestrian Advisory Committee	Maika Llorens Gulati
Board of Library Trustees	Maribeth Bushey
Business Improvement District Advisory Group	Rachel Kertz
Cannabis Industry Tax Oversight Committee (Measure G)	Maribeth Bushey
Design Review Board	Kate Colin
Fire Commission	Eli Hill
Measure E Transaction and Use Tax Oversight Committee	Rachel Kertz
Special Library Parcel Tax Committee (Measure D)	Maribeth Bushey
Pickleweed Advisory Committee	Maika Llorens Gulati
Park and Recreation Commission	Eli Hill
Planning Commission	Kate Colin
Joint Powers Agreement (JPA)	
Marin County Animal Control	Jim Schutz
Marin County Hazardous and Solid Waste Joint Powers Authority Board and Executive Committee	Jim Schutz Cristine Alilovich (Alt)
Marin Emergency Radio Authority (MERA) Governing Board	Dave Spiller Glenn McElderry (Alt) Robert Sinnott (Alt)
Marin Emergency Radio Authority (MERA) Executive Board	Darin White
Marin General Services Authority	Jim Schutz Cristine Alilovich (Alt)
Marin Wildfire Prevention Authority	Rachel Kertz Eli Hill (Alt)
Marin County Council of Mayors & Councilmembers (MCCMC)	
Legislative Committee	Rachel Kertz
Marin Transit District (MCCMC appointment; non-City appointment)	Kate Colin

Homelessness Policy Maker Group	Kate Colin (C) Rachel Kertz
Climate Mitigation Committee	Maika Llorens Gulati
Disaster Preparedness	Eli Hill Maribeth Bushey (Alt)
MCCMC Economic Recovery	Kate Colin Maika Llorens Gulati
Ad Hoc Water Policy Committee	Maribeth Bushey Eli Hill
<u>MCCMC City/County Services Subcommittee</u>	<u>Kate Colin</u> <u>Maribeth Bushey</u>

ORDINANCE NO. 2003

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL APPROVING A PLANNED DEVELOPMENT REZONING FROM PLANNED DISTRICT – HILLSIDE DEVELOPMENT OVERLAY DISTRICT (PD-H) AND RESIDENTIAL – HILLSIDE DEVELOPMENT OVERLAY DISTRICT (R2A-H) TO PLANNED DEVELOPMENT DISTRICT (PD), FOR THE CONSTRUCTION OF A MIXED-USE PROJECT CONSISTING OF 192 RESIDENTIAL APARTMENT UNITS, A 5,600 SQUARE-FOOT MARKET, A 5,000 SQUARE FOOT COMMUNITY CENTER, AND 225 AT-GRADE AND SEMI-SUBTERRANEAN PARKING SPACES FOR THE 10.24 ACRE SITE LOCATED AT THE SOUTHERLY TERMINUS OF LOS GAMOS DRIVE NORTH OF OLEANDER DRIVE

**(THE NEIGHBORHOOD AT LOS GAMOS)
(APNS: 165-220-06 AND 165-220-07)**

WHEREAS, on December 22, 2020, the applicants submitted applications for a General Plan Amendment (GPA 20-001) from Hillside Resource Residential to Neighborhood Commercial Mixed Use; Zone Change (ZC 20-002) from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD); Vesting Tentative Parcel Map to combine and adjust the boundaries of the existing parcels; and Environmental and Design Review (ED 20-058) for a mixed-use project with 192 multi-family residential units, an approximately 5,600-square-foot market, a 5,000-square-foot community center, and 225 at-grade and semi-subterranean parking spaces; on a 10.24 acre site located at the southerly terminus of Los Gamos Drive north of Oleander Drive; and

WHEREAS, the current zoning for the site does not allow the type of mixed-use development proposed and does not contain appropriate land use limitations and development standards, as required by Section 14.07.060 of Title 14 of the San Rafael Municipal Code (Zoning Ordinance); and

WHEREAS, the proposed PD District land use and development regulations for the property are presented in Exhibit B. The PD proposes to:

- a) Create a new PD Zoning District for the property;
- b) Establish permitted land uses in the PD district; and
- c) Establish development standards appropriate for the district.

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines, staff determined that the applications for a general plan amendment, zone change, vesting tentative parcel map, and environmental and design review permits, are a 'project,' making it subject to environmental review. Pursuant to CEQA Guidelines Section 15063, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to determine the potential environmental impacts of the project. The IS/MND is supported by several technical studies including air quality, noise, geotechnical and traffic; and

WHEREAS, the IS/MND assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2040 to change the existing Hillside Resource Residential (HRR) land use designation of the property to Neighborhood Commercial Mixed Use (NCMU) land use designation. The IS/MND finds that the proposed amendment to the General Plan will not result in significant unmitigable impacts; and

WHEREAS, as demonstrated in the preparation of the IS/MND, all potentially significant effects on the environment identified in the IS/MND can be mitigated to less-than-significant levels with implementation of the recommended mitigation measures, including impacts to aesthetics, air quality, biologic resources, cultural and tribal resources, geology and soils, and hydrology and water quality consistent with CEQA Guidelines; and

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WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to ensure implementation of, and compliance with, all conditions required to mitigate any environmental impact to a level of less than significant. All the identified mitigation measures have also been included as conditions of project approval; and

WHEREAS, the project, including the Notice of Availability of the IS/MND, along with the planning applications, was publicly noticed 30 days in advance of the Planning Commission hearing, through the following means: 1) the subject site was posted; 2) publishing a legal ad in the Marin Independent Journal, a local newspaper of general circulation in the area, on November 1, 2021; and 3) notices were mailed to surrounding property owners within 300 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups in conformance with the CEQA Guidelines; and

WHEREAS, on October 5, 2021, the project was considered by the Design Review Board (DRB) which recommended approval of the project subject to conditions to reconsider a darker color palette for the walls of the structures, to try to provide a more natural and less formal arrangement of the proposed trees on the project, to mitigate the impact of the tall retaining walls in the Village Commons, and for the project to come back for final review of the design details by the DRB when building permits were submitted; and

WHEREAS, the applicant has agreed to all the recommended changes and they have been incorporated into the conditions of approval for the project; and

WHEREAS, on December 14, 2021, following a public hearing and deliberation on the project, the Planning Commission voted 5-0-2 (Commissioners Mercado and Previtali absent) and adopted Planning Commission Resolutions 21-10, 21-11 and 21-12 recommending that the City Council 1) adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project; 2) approve Zone Change application ZC 20-002; c) conditionally approve the Vesting Tentative Parcel Map; and d) conditionally approve Environmental and Design Review application 20-058; and

WHEREAS, on February 7, 2022, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on February 7, 2022, by adoption of separate resolution, the City Council adopted the IS/MND and approved an MMRP for the project; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department; and

WHEREAS, as required by San Rafael Municipal Code Sections 14.07.090 and 14.27.060, the City Council makes the following findings in support of an ordinance to rezone the property from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD), as shown on the map contained in **Exhibit A** and further described in **Exhibit C**, and to establish a new PD District as outlined in **Exhibit B** (The Neighborhood at Los Gamos):

1. The Development Plan is consistent in principle with the San Rafael General Plan 2040 and other applicable City plans or policies in that the project includes appropriate development standards, and is subject to an Environmental and Design Review Permit implementing the intent of Chapter 14.25 (Environmental and Design Review Permit) of the San Rafael Zoning Ordinance (Title 14 of the San Rafael Municipal Code), Subdivision Ordinance (Title 15 of San Rafael Municipal Code), and the applicable General Plan land use policies, as described

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in the General Plan Consistency Analysis included herein by reference as **Exhibit D**.

2. The applicant proposes to add 192 units of new residential development, including 20 below market rate (BMR) units, which will help serve to accommodate the projected need for 1,007 additional housing units in the City by the year 2023. The 4 and 5-story mixed-use development creates a reasonable transition between the existing residential properties south and west of the site and the commercial properties southeast, northeast and across the 101 Freeway to the east. Further, the development plan has been reviewed and recommended for approval by the Design Review Board.
3. The local utility agencies have reviewed the plans and confirmed that the proposed development can be served by public facilities such as sewer, water, refuse services and other infrastructure resources that currently serve the existing development adjacent to the site.
4. The applicant has accepted the City's direction to use the Neighborhood Commercial Mixed Use (NCMU) property development standards for the new PD zoning, as this General Plan Land Use designation most closely approximates the proposed property development standards. The proposed new development has been designed to comply with the applicable NCMU property development standards, with the exception of the Waiver requested for height and the Concession for commercial parking as provided by State Density Bonus Law, and the proposed project is not requesting any other deviations (Variances) from land use regulations.
5. The auto, bicycle and pedestrian traffic systems presented on the Development Plan are adequately designed for circulation needs and public safety in that: a) the Development Plan proposes sidewalks throughout the development for pedestrian access; b) emergency vehicle ingress and egress from the development would be provided through the existing portion of Los Gamos Drive that provides access to the site; and c) the access and site layout have been reviewed by the appropriate City departments and have been found to be adequate by the City of San Rafael Fire and Police Departments.
6. The public health, safety and welfare are served by the adoption of the proposed PD District, in that the project as proposed and conditioned: a) would implement housing and environmental goals and policies adopted for this site in the San Rafael General Plan 2040; b) would conform to City standards for safety; c) as proposed, and conditioned, it would be consistent with the recommended mitigation measures presented in the Initial Study/Mitigated Negative Declaration prepared for this project; and d) would address potential project impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, and Tribal Cultural Resources the inclusion of conditions of approval, including the Mitigation Monitoring and Reporting Program, and Environmental and Design Review Permit.

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

DIVISION 1.

The Zoning Map of the City of San Rafael, California, adopted by reference by Section 14.01.020 of the San Rafael Municipal Code is amended by reclassifying the following real property from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD) – Ordinance No. 2003. Said property so reclassified is located at the southerly terminus of Los Gamos Drive, San Rafael, as shown on County Assessor's

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Parcel No's: 165-220-06 AND 165-220-07, as shown on the map attached as Exhibit "A" and described in Exhibit "C", which are incorporated by reference.

DIVISION 2.

Any development of this property shall be subject to the conditions outlined in Exhibit "B", *The Neighborhood at Los Gamos – Planned Development District*, which is attached hereto and made a part hereof.

DIVISION 3.

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

DIVISION 4.

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, 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 or against the ordinance.


KATE COLIN, Mayor

ATTEST:


LINDSAY LARA, City Clerk

The foregoing Ordinance No. 2003 was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 7th day of February 2022 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

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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 22nd day of February 2022.

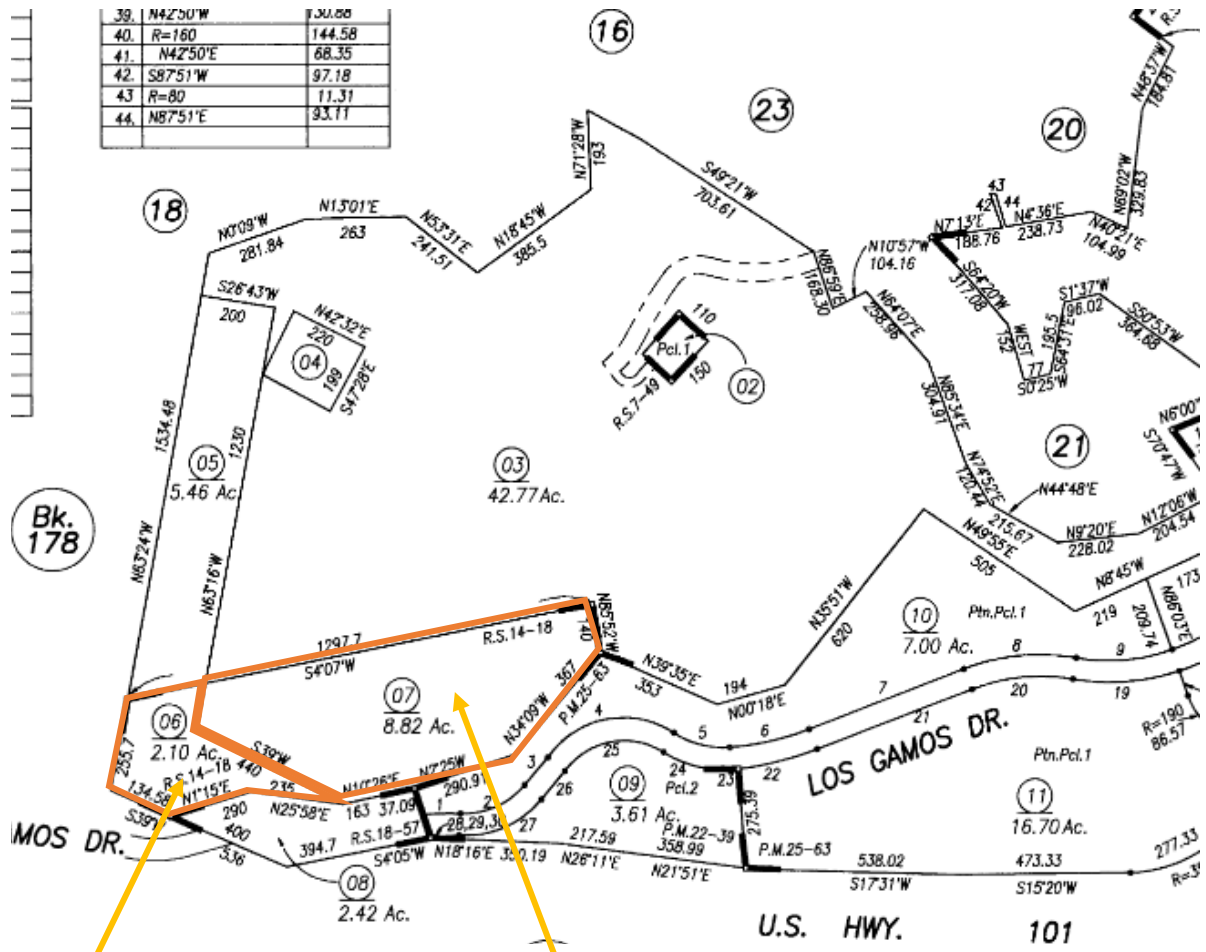


LINDSAY LARA, City Clerk

- Exhibit A: Zone Change Map
- Exhibit B: Planned Development District Standards
- Exhibit C: Legal Property Description
- Exhibit D: General Plan Consistency Analysis

Exhibit A

REZONING MAP



APN 165-220-006

APN 165-220-007

PD Rezoning to create a new PD for these two properties for The Neighborhood at Los Gamos (near the southerly terminus of Los Gamos Drive)

EXHIBIT B

THE NEIGHBORHOOD AT LOS GAMOS – PLANNED DEVELOPMENT DISTRICT

1. PURPOSE OF PLANNED DEVELOPMENT DISTRICT

The purpose of the Planned Development District for the mixed-use project known as The Neighborhood at Los Gamos is to regulate the development on the 10.24 acre site.

2. LAND USE REGULATIONS

- a) This PD permits the following site characteristics:
 - 192 residences;
 - a 5,574 square-foot market;
 - a 5,003 square foot community center;
 - 225 parking spaces;
 - the South Park recreational and open space area;
 - The Commons recreational and open space area; and
 - landscaping, roadways, recreational features and other improvements.
- b) Land uses permitted on the property shall be those described in the staff report dated February 7, 2022, and shown on the plans considered by the City Council on that date or any other use permitted as a matter of right in the Neighborhood Commercial zoning district pursuant to San Rafael Municipal Code (SRMC) Section 14.05.020. Any other land uses will require application and review as a zoning amendment as provided by SRMC Section 14.07.150.
- c) Private Usable Open Space: Balconies provided for the units shall remain open and not be enclosed or otherwise screened with mesh or other materials.
- d) All site improvements shall be installed as shown on the approved plans.

3. DEVELOPMENT STANDARDS

The Planned Development shall be developed in conformance with the approved development plans, associated drawings and reports submitted with the Planned Development as listed in Exhibit 6 to the Planning Commission staff report dated December 14, 2021. Deviations from those plans that are deemed minor or incidental by the Planning Director may be processed administratively.

Exhibit C

LEGAL DESCRIPTION

The land referred to is situated in the County of Marin, City of San Rafael, State of California, and is described as follows:

PARCEL ONE:

BEGINNING at the most Southern corner of that certain parcel of land described in the Deed to Trans Western Title Company, a California corporation, recorded January 31, 1984 in Book 1775 of Official Records at Page 442; thence from said point of beginning, along the Western line of said Trans Western Title Parcel, North 01° 15' 00" East 290.00 feet, North 25°58' 00" East 235.00 feet, North 10° 26' 00" East 183.00 feet and North 02° 25' 00" West 37.085 feet to the Southwestern corner of Parcel One, as described in the Deed of Jack H. Bennett, recorded March 14, 1967 in Book 2114 of Official Records at Page 392; thence along the general Western line of said Parcel One North 2° 25' 00" West 290.915 feet, and North 34° 09' 00" West 387.00 feet; thence leaving said Western line North 85° 52' 37" West 140.00 feet; thence South 4° 07' 23" West 1298 feet more or less to a point in the boundary described in an agreement recorded March 1, 1951 in Book 681 of Official Records at Page 76; thence along said boundary South 63° 16' 30" East 256 feet more or less to an angle point therein which bears South 39° 03' 00" West from the point of beginning; thence continuing along said boundary line North 39° 03' 00 " East 135.00 feet, more or less, to the point of beginning.

PARCEL TWO:

AN EASEMENT for vehicular and pedestrian access and public utility services, including sewer service described as follows:

BEGINNING at the Southwesterly corner of the land shown on that certain record of survey entitled, "Los Gamos Drive Extension", recorded in Book 6 at Page 8 of Official Surveys, Marin County Official Records, said point also being the intersection of the lines on said survey shown as South 87° 35' West 143.09 feet and North 2° 25' West 328.00 feet; thence from said point of beginning along the following courses and distances; South 2° 25' 00 " East 37.09 feet, thence South 10° 26' 00" West 2.99 feet, thence North 87° 35' 00" East 119.04 feet, thence North 4° 07' 23" East 40.26 feet, thence South 87° 35' 00" West 122.96 feet to the point of beginning.

APN: 165-220-06 and 165-220-07.

Exhibit D

TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2040

LAND USE ELEMENT	
<p>LU-1.2: Development Timing. For health, safety, and general welfare reasons, new development should only occur when adequate infrastructure is available, consistent with the following findings:</p> <ul style="list-style-type: none"> a) The project is consistent with adopted Vehicle Miles Traveled (VMT) standards, as well as the requirements for Level of Service (LOS) specified in the Mobility Element. b) Planned circulation improvements necessary to meet City standards for the project have funding commitments and completed environmental review. c) Water, sanitary sewer, storm sewer, and other infrastructure improvements needed to serve the proposed development have been evaluated and confirmed to be in place or to be available to serve the development by the time it is constructed. d) The project has incorporated design and construction measures to adequately mitigate exposure to hazards, including flooding, sea level rise, and wildfire. 	<p><i>Consistent with Conditions</i></p> <p>The project proposes development on a vacant site. The quasi-governmental agencies that would provide water and sewer service to the site have reviewed the proposed project and determined that there is adequate capacity to service the new project. Marin Municipal Water District (MMWD) has indicated that a pipeline extension is required to serve the site. This requirement has been added to the conditions of approval. Las Gallinas Valley Sanitation District (LGVSD) has determined that they can serve the project subject to several conditions which have been added to the conditions of approval.</p> <p>The City Traffic Engineer has reviewed the project and the Traffic Impact Study prepared by W-Trans. The City Traffic Engineer concurs that this project would generate 78 additional a.m. and 102 additional p.m. peak hour vehicular trips. The City Traffic Engineer concurs with the conclusion made in the Traffic Impact Study that the project would have a less-than-significant impact for LOS levels at the studied intersections and below the VMT significance thresholds. The project is conditioned on the payment of traffic mitigation fees based on the 180 total new a.m./p.m. peak hour vehicle trips that would be generated by the project.</p> <p>The analysis in the Mitigated Negative Declaration (MND) determined that the project was not subject to flood hazard. The project incorporates a Vegetation Management Plan and a fuel break buffer around the proposed development to reduce risk of uncontrolled wildfire spread. In addition, the project would be constructed pursuant to City of San Rafael development standards for new construction, including installation of fire sprinklers and fire-retardant building materials. Since the project is 30 to 200 feet above sea level, it is not expected to be subject to sea level rise.</p>
<p>LU-1.8: Density of Residential Development. Use the density ranges in the Land Use Element to determine the number of housing units allowed on properties within the Planning Area. The following provisions apply:</p> <ul style="list-style-type: none"> a) The density “range” includes a maximum and minimum. A given General Plan designation may have multiple corresponding zoning districts, including at least one district in which the maximum density may 	<p><i>Consistent</i></p> <p>The project proposes to construct 192 dwelling units on the 10.24 acre site, for a density of 18.75 units per acre; therefore, it would not exceed the maximum density allowed in the Neighborhood Commercial Mixed Use Land Use category where up to 24.2 units per acre are allowed.</p> <p>The applicant has proposed that 10% of the units be affordable at the Low Income Level. As an affordable housing project, the project is eligible for a Density Bonus under State law. The</p>

<p>be achieved. Other zoning districts may have maximum densities that are less than the maximum indicated by the General Plan.</p> <p>b) Calculation of allowable units shall be rounded to the nearest whole number. Where the number is less than 0.5, it shall be rounded down. Where the number is 0.5 or greater, it may be rounded up.</p> <p>c) The number of units permitted on a given parcel may be affected by site resources and constraints, potentially hazardous conditions, climate-related factors (sea level rise, fire hazards, etc.), traffic and access (including wildfire evacuation constraints), the adequacy of infrastructure, City design policies, and prevailing densities in adjacent areas.</p> <p>d) The maximum net density shown on the General Plan excludes density bonuses that may be provided for affordable housing or other community benefits, in accordance with State law and local policies.</p>	<p>applicant has applied for a density bonus of 0, in that no increase in the number of units is proposed, but the application is accompanied by a request for a Waiver of the height limit of 30' and a Concession to allow reduced parking for the project. Both the Waiver and the Concession are allowed pursuant to State Density Bonus Law.</p>
<p>LU-1.9: Clustering. Allow clustering of development as a way to conserve environmentally sensitive or hazardous portions of a site (such as unstable slopes or flood plains) and enhance wildlife corridors. In such instances, the density calculation shall be made based on the area of the entire site (minus streets and easements), with the resulting number of units transferred to the less sensitive areas. The result would be a denser housing product on a portion of the site, with the balance conserved as open space.</p>	<p><i>Consistent</i></p> <p>The project clusters the structures on the site in a way that minimizes the grading and preserves more of the existing vegetation including a majority of the mature trees. It also allows to the use of the South Park area, just over an acre in size, as a significant recreational amenity on the property. This area will include both natural open space and improvements including paths and children's play structures.</p>
<p>LU-1.10: Intensity of Non-Residential Development. Use the Floor Area Ratio limits on Figure 3-2 to determine the square footage of building space allowed on properties with non-residential General Plan designations. The following provisions apply:</p> <p>a) As with density, FAR is calculated on a "net" basis, and is based on the area of each parcel excluding streets and easements.</p> <p>b) The maximum FAR stated by the General Plan is not guaranteed. The square footage permitted on a given</p>	<p><i>Consistent</i></p> <p>The project proposes a commercial use that conforms to the maximum FAR of 0.01.</p>

<p>parcel may be affected by site resources and constraints, potentially hazardous conditions, climate-related factors (sea level rise, fire hazards, etc.), traffic and access (including wildfire evacuation constraints), the adequacy of infrastructure, and City design policies.</p> <p>c) The maximum FARs shown in Figure 3-2 exclude any residential development on the property. In the event that residential uses or mixed use projects are proposed on these sites, the maximum area is the sum of the FAR allowance plus the residential density allowance for the property. This Clause does not apply to Downtown San Rafael, which is regulated by the Downtown Precise Plan.</p>	
<p>LU-1.15: Planned Development Zoning. Encourage the use of Planned Development (PD) zoning for development on parcels greater than five acres when the application of traditional zoning standards would make it more difficult to achieve General Plan goals. The PD zoning designation allows flexible design standards that are more responsive to site conditions as well as the transfer of allowable General Plan and zoning density between contiguous sites under common ownership.</p>	<p><i>Consistent</i> The project proposes Planned Development zoning on a site larger than 5 acres.</p>
<p>LU-1.17: Building Heights. Use General Plan Figures 3-3 and 3-4 as the basis for determining “baseline” maximum building heights in San Rafael. Maximum heights should continue to be codified through zoning and any applicable Specific Plans or Precise Plans. In addition, the following specific provisions related to building heights shall apply:</p> <p>a) Height of buildings existing or approved as of January 1, 1987 shall be considered as conforming to zoning standards.</p> <p>b) Hotels outside of the Downtown Precise Plan boundary have a 54-foot height limit. Within Downtown, the height provisions of the Downtown Precise Plan apply (see Figure 3-4).</p> <p>c) As provided for by Policy LU-1.18, “baseline” building heights are subject to height bonuses where specific</p>	<p><i>Consistent with Waiver per State Density Bonus Law</i> Although the project would exceed the maximum building height of 30 feet allowed for this area of San Rafael, the project has applied for a Density Bonus and a waiver from the height limit as permitted under State Density Bonus law, so the General Plan standard has been superseded by State law.</p>

<p>community benefits are provided, where a Variance or zoning exception is granted, or where a Transfer of Development Rights (TDR) is being implemented.</p> <p>d) Heights may be increased by up to six (6) feet above the baseline building heights as necessary to mitigate the exposure of properties to sea level rise and other flooding hazards (e.g., raising the first floor of habitable floor space above anticipated tidal flood elevations).</p>	
<p>LU-2.2: Mixed Use Development. Encourage mixed-use development (combining housing and commercial uses) in Downtown San Rafael and on commercially designated properties elsewhere in the city. Mixed-use development should enhance its surroundings and be compatible with adjacent properties.</p>	<p><i>Consistent</i> The project is a mixed-use development with both residences and commercial uses.</p>
<p>LU-3.3: Housing Mix. Encourage a diverse mix of housing choices in terms of affordability, unit type, and size, including opportunities for both renters and owners.</p>	<p><i>Consistent</i> The project proposes apartments, including 10% of the units affordable at the Low Income level.</p>
<p>COMMUNITY DESIGN AND PRESERVATION ELEMENT</p>	
<p>CDP-1.3: Hillside Protection. Protect the visual integrity and character of San Rafael’s hillsides and ridgelines. Where hillside construction is permitted, structures should be designed to provide slope and foundation stability, erosion control, and adequate emergency access, drainage and parking. Hillside buildings should be sited to protect the natural landscape, avoid excessive tree loss, and preserve scenic vistas from public vantage points.</p>	<p><i>Consistent with Conditions</i> The project has been designed according to the Hillside Design Guidelines by utilizing clustering, the use of setbacks for the walls of the structures, the use of tuck-under parking, and the use of materials and colors that help the buildings blend into the appearance of the hillside. The project has been reviewed by the Design Review Board. Recommendations from the Board for project design improvements have been incorporated into the conditions of approval.</p>
<p>CDP-4.2: Public Involvement in Design Review. Provide for public involvement in design review through effective noticing, adequate comment timelines, and clear project review opportunities, while still achieving development streamlining objectives.</p>	<p><i>Consistent</i> The project has been reviewed by the Design Review Board and found, as conditioned, to be consistent with the applicable design policies of the General Plan and the City’s Multi-family Design Guidelines. All public hearings have been, or will be, properly noticed as required by the Zoning Ordinance. In addition, the project applicant conducted a neighborhood outreach meeting on September 30, 2021, that was attended by members of the public.</p>

<p>CDP-4.5: Higher Density Design. Encourage high-quality architecture and landscape design in new higher-density housing and mixed-use projects. Such projects should be designed to be compatible with nearby buildings and respect the character-defining features of the surrounding neighborhood or district.</p>	<p><i>Consistent with Conditions</i> This mixed-use project has been reviewed by the Design Review Board and found, as conditioned, to be consistent with the applicable design policies of the General Plan and the City’s Multi-family Design Guidelines and utilizes high-quality architecture and landscape design.</p>
<p>CDP-4.6: Open Space in Multi-Family Housing. Require private outdoor areas such as decks and patios, as well as common open space areas, in new multi-family development and mixed use housing. Common open space may include recreation facilities, gathering places, and site amenities such as picnic and play areas.</p>	<p><i>Consistent</i> The project provides both private open space for each unit and large common open space areas, including the South Park area of approximately 1 acre and the Commons area, approximately 10,000 square feet of recreational area above and beside the market/community center that includes seating, a water feature, a children’s play area and other recreational amenities. Each of the common areas are easily accessible to the residents.</p>
<p>CDP-4.7: Larger-Scale Buildings. Design larger scale buildings to reduce their perceived mass. Encourage the incorporation of architectural elements such as towers, arcades, courtyards, and awnings to create visual interest, provide protection from the elements, and enhance orientation.</p>	<p><i>Consistent with Conditions</i> The project is broken into five apartment buildings and one dual-use building, reducing the mass of each building. The buildings use articulation of building form, and are set into the hill such that the perceived mass is reduced. The proposed materials and colors will also help reduce the perceived mass of the buildings. As mentioned, the Design Review Board recommended approval of the project with recommendations for design improvements which have been incorporated into the conditions of approval.</p>
<p>CDP-4.9: Parking and Driveways. Encourage parking and circulation design that supports pedestrian movement and ensures the safety of all travelers, including locating parking to the side or rear of buildings, limiting driveway cuts and widths, and minimizing large expanses of pavement. Parking should be screened from the street by landscaping and should provide easy access to building entrances.</p>	<p><i>Consistent</i> The parking areas are completely screened from off-site views because they are either tucked under the buildings or they are blocked from view by the proposed buildings and landscaping. A system of sidewalks connects the buildings to each other and to the common open space areas, promoting pedestrian access throughout the site. The project has a relatively small amount of surface parking with only 42 spaces not located beneath the buildings. The location of the majority of the parking beneath the buildings gives easy access to the buildings.</p>
<p>CDP-4.10: Landscape Design. Encourage—and where appropriate require—privately owned and maintained landscaping that conserves water, contributes to neighborhood quality, complements building forms and materials, improves stormwater management and drainage, and enhances the streetscape. Natural elements such as plants should be an integral part of site development and should enhance the built environment while supporting water conservation goals.</p>	<p><i>Consistent with Conditions</i> The project has an extensive landscape palette that relies on low-water using plants, including many California natives, creating an attractive and sustainable plan. Of the 285 existing trees on the property, 55 will be removed; the majority of the existing mature trees are preserved. An additional 210 trees, including oak species, will be planted on the property. As mentioned, the Design Review Board reviewed the project design, including the landscaping plans, and recommended approval of the project with recommendations for design improvements which have been incorporated into the conditions of approval.</p>

<p>CDP-4.11: Lighting. Encourage lighting for safety and security while preventing excessive light spillover and glare. Lighting should complement building and landscape design.</p>	<p><i>Consistent with Conditions</i></p> <p>The project design includes a total of 26 new light poles, from 14-16 feet tall, along the internal driveway system, 86 small light bollards mostly concentrated in the area of the market/community center, and 24 other small light fixtures in various locations. A photometric plan was submitted and reviewed by the Design Review Board and recommended for approval. Proposed lighting will have to meet the standards of SRMC Section 14.16.227, Light and Glare. In addition, Mitigation Measure AES-1 requires the project to conduct a post-installation lighting study showing that the lighting on the site complies with the plan and the requirements of the Municipal Code. As conditioned, the project will have adequate lighting without spillover onto adjacent properties or natural areas.</p>
<p>CONSERVATION AND CLIMATE CHANGE ELEMENT</p>	
<p>C-1.6: Creek Protection. Protect and conserve creeks as an important part of San Rafael’s identity, natural environment, and green infrastructure. Except for specific access points approved per Policy C-1.7 (Public Access to Creeks), development-free setbacks shall be required along perennial and intermittent creeks (as shown on www.marinmaps.org) to help maintain their function and habitat value. Appropriate erosion control and habitat restoration measures are encouraged within the setbacks, and roadway crossings are permitted.</p>	<p><i>Consistent</i></p> <p>There is an existing drainageway crossing west to east near the middle of the site. The new buildings have been sited north of the drainageway. A bridge is proposed to span the drainageway to provide pedestrian access from the new apartments to the South Park recreational and open space area south of the new buildings. The bridge is designed to preserve the existing drainageway by providing a 25’ setback of all structures, including bridge footings, from the top of the drainage on either side.</p>
<p>C-1.10: Hillside Preservation. Encourage preservation of hillsides, ridgelines, and other open areas that serve as habitat and erosion protection as well as visual backdrops to urban areas.</p>	<p><i>Consistent</i></p> <p>The project is located below the ridgeline west of the site and utilizes clustering to minimize the amount of grading and impacts to existing vegetation. The majority of the existing trees on the site would be preserved.</p>
<p>C-1.12: Native or Sensitive Habitats. Protect habitats that are sensitive, rare, declining, unique, or represent a valuable biological resource. Potential impacts to such habitats should be minimized through compliance with applicable laws and regulations, including biological resource surveys, reduction of noise and light impacts, restricted use of toxic pesticides, pollution and trash control, and similar measures.</p>	<p><i>Consistent with Mitigation</i></p> <p>As documented in the Mitigated Negative Declaration, Section IV Biological Resources, “no federal or state listed (plant) species were observed or are expected to occur” on the site; one rare plant has “moderate potential to occur”; 16 of 17 “special status wildlife species were considered to have no potential to occur” and the other species had “low potential to occur”; and because the site has many mature trees, there is potential to impact nesting birds. Mitigation Measure BIO-1 is included in the Mitigated Negative Declaration and the conditions of approval and will ensure that rare or protected plants and nesting birds are not impacted by site development.</p>
<p>C-1.13: Special Status Species. Conserve and protect special status plants and animals, including those listed by State or federal agencies as threatened and/or</p>	<p><i>Consistent with Mitigation</i></p> <p>See discussion in C-1.12 above.</p>

<p>endangered, those considered to be candidate species for listing by state and federal agencies, and other species that have been assigned special status by the California Native Plant Society and the California Fish and Game Code. Avoidance of impacts, accompanied by habitat restoration, is the preferred approach to conservation, but mitigation measures may be considered when avoidance is not possible.</p>	
<p>C-1.15: Landscaping with Appropriate Naturalized Plant Species. Encourage landscaping with native and compatible non-native plant species that are appropriate for the dry summer climate of the Bay Area, with an emphasis on species determined to be drought-resistant. Diversity of plant species is a priority for habitat resilience.</p>	<p><i>Consistent</i> The proposed landscape plant species were reviewed by the Design Review Board to ensure appropriate species were proposed.</p>
<p>C-1.16: Urban Forestry. Protect, maintain, and expand San Rafael’s tree canopy. Trees create shade, reduce energy costs, absorb runoff, support wildlife, create natural beauty, and absorb carbon, making them an essential and valued part of the city’s landscape and strategy to address global climate change. Tree planting and preservation should be coordinated with programs to reduce fire hazards, reduce greenhouse gas emissions, expand solar opportunities, and ensure public safety, resulting in a community that is both green and fire-safe.</p>	<p><i>Consistent</i> Of the 285 existing mature trees on the property, 230 will be preserved and another 210 trees will be planted. Many of the existing trees are oak species and oaks are also proposed as part of the new landscape plan.</p>
<p>C-2.2: Land Use Compatibility and Building Standards. Consider air quality conditions and the potential for adverse health impacts when making land use and development decisions. Buffering, landscaping, setback standards, filters, insulation and sealing, home HVAC measures, and similar measures should be used to minimize future health hazards.</p>	<p><i>Consistent with Mitigation</i> As described in the Mitigated Negative Declaration, Section III Air Quality, Air Quality impacts during temporary construction and grading activities required by the project would result in less-than-significant impacts with mitigation measures. In addition, the project would result in less-than-significant impacts with mitigation measures to minimize long-term increased cancer risk to new project occupants from exposure to small particulate matter (PM2.5). The required Air Quality mitigation measures (AQ-1, AQ-2), which include requirements for enhanced air filtration systems in the project and methods to reduce dust creation during construction, are included in the Mitigated Negative Declaration and the conditions of approval.</p>
<p>C-2.4: Particulate Matter Pollution Reduction. Promote the reduction of particulate matter from roads, parking lots, construction sites, agricultural lands, wildfires, and other sources.</p>	<p><i>Consistent with Mitigation</i> Mitigation Measure AQ-1 includes dust-control techniques to control dust and exhaust during construction.</p>

<p>C-3.1: Water Quality Standards. Continue to comply with local, state and federal water quality standards.</p>	<p><i>Consistent with Mitigation</i> As described in the Mitigated Negative Declaration, Section X, Hydrology and Water Quality, Mitigation Measure HYDRO-1 requires the applicant to prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement stormwater control measures such as Low Impact Development (LID) and Best Management Practices (BMP's) per the City's Manual of Stormwater Pollution Control Standards for New Development and Redevelopment. In addition, Mitigation Measure HYDRO-1 requires the project "applicant to verify that operational stormwater quality control measures...have been implemented." These measures will ensure that less-than-significant impacts to water quality will occur.</p>
<p>C-3.2: Reduce Pollution from Urban Runoff. Require Best Management Practices (BMPs) to reduce pollutants discharged to storm drains and waterways. Typical BMPs include reducing impervious surface coverage, requiring site plans that minimize grading and disturbance of creeks and natural drainage patterns, and using vegetation and bioswales to absorb and filter runoff.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 above.</p>
<p>C-3.3: Low Impact Development. Encourage construction and design methods that retain stormwater on-site and reduce runoff to storm drains and creeks.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 above. In addition, as described in the Mitigated Negative Declaration, Section X, Hydrology and Water Quality, the project includes stormwater management features such as bioretention areas which have been designed to account for enough storage volume to attenuate peak flows on and from the site. These features and the implementation of Mitigation Measures HYDRO-1 and HYDRO-2 ensure that the project would not result in on- or off-site flooding.</p>
<p>C-3.9: Water-Efficient Landscaping. Encourage—and where appropriate require—the use of vegetation and water-efficient landscaping that is naturalized to the San Francisco Bay region and compatible with water conservation, fire prevention and climate resilience goals.</p>	<p><i>Consistent</i> The proposed landscape plan was reviewed by the Design Review Board to ensure that the landscaping incorporated appropriate water-efficient features.</p>
<p>C-4.1: Renewable Energy. Support increased use of renewable energy and remove obstacles to its use.</p>	<p><i>Consistent</i> The project proposes the installation of photovoltaic panels on the roofs of the apartment buildings to reduce the use of non-renewable energy sources.</p>
<p>C-4.2: Energy Conservation. Support construction methods, building materials, and home improvements that improve energy efficiency in existing and new construction</p>	<p><i>Consistent</i> The project will comply with the most recently adopted California Building Code (CBC) CalGreen and Title-24 Energy regulations.</p>
<p>C-4.5: Resource Efficiency in Site Development. Encourage site planning and development practices that</p>	<p><i>Consistent</i></p>

reduce energy demand and incorporate resource- and energy-efficient infrastructure.	The mixed-use nature of the project is more energy efficient than tradition development patterns. The inclusion of a grocery store encourages residents to walk to the store. The project also incorporates rooftop solar panels.
PARKS, RECREATION AND OPEN SPACE ELEMENT	
PROS-1.13: Recreational Facilities in Development Projects. Encourage, and where appropriate require, the construction of on-site recreational facilities in multi-family, mixed use, and office projects to supplement the facilities available in City parks.	<i>Consistent</i> The project includes substantial recreational amenities such as: 1) the South Park area of nearly an acre with both natural open space and improvements including children’s play structures; 2) the Village Commons area totaling approximately 10,000 square feet with both children’s play areas and passive recreational features for adults; and 3) the 5,003 square-foot community room above the grocery store.
PROS-3.5: Private Open Space. Ensure the long-term stewardship of privately-owned open space in a manner that conserves natural resource and aesthetic values, sustains wildlife, and reduces hazards to life and property. Opportunities to better integrate common open space in private development with public open space space (via trails, etc.) should be encouraged.	<i>Consistent</i> The project design preserves almost half the site (4.83 acres) as undisturbed open space. The majority of the existing trees will be preserved. The South Park area includes a substantial proportion of natural hillside made accessible with pedestrian paths.
SAFETY AND RESILIENCE ELEMENT	
S-1.2: Location of Future Development. Permit development only in those areas where potential danger to the health, safety, and welfare of the community can be adequately mitigated. Land uses and densities should take environmental hazards such as earthquakes, flooding, slope stability, sea level rise, and wildfires into consideration.	<i>Consistent with Mitigation</i> As documented in the Mitigated Negative Declaration Section VII, Geology and Soils, reports from Miller Pacific Engineering Group (MPEG) and Salem Howes Associates Inc. evaluated the potential for project impacts related to geologic hazards. The reports determined that no active faults crossed the site and that the site was in an area with low liquefaction potential. Since the site is in an area potentially subject to strong ground shaking during an earthquake, Mitigation Measure GEO-1 requires the preparation of a design-level geotechnical investigation. To address the potential for landslide impacts and soil instability, Mitigation Measure GEO-2 requires the preparation of a final geotechnical report. With the implementation of these Mitigation Measures, potential impacts related to earthquakes and slope stability will be reduced to less-than-significant levels. See LU-1.2 for a discussion of flood, sea level rise and wildfire hazards.
S-2.1: Seismic Safety of New Buildings. Design and construct all new buildings to resist stresses produced by earthquakes. The minimum level of seismic design shall be in accordance with the most recently adopted building code as required by State law.	<i>Consistent with Mitigation</i> See S-1.2 above.

<p>S-2.2: Minimize the Potential Effects of Landslides. Development proposed in areas with existing or potential landslides (as identified by a Certified Engineering Geologist, Registered Geotechnical Engineer, or the LHMP) shall not be endangered by, or contribute to, hazardous conditions on the site or adjoining properties. Landslide mitigation should consider multiple options in order to reduce potential secondary impacts (loss of vegetation, site grading, traffic, visual). The City will only approve new development in areas of identified landslide hazard if the hazard can be appropriately mitigated, including erosion control and replacement of vegetation.</p>	<p><i>Consistent with Mitigation</i> See S-1.2 above.</p>
<p>S-2.5: Erosion Control. Require appropriate control measures in areas susceptible to erosion, in conjunction with proposed development. Erosion control measures should incorporate best management practices (BMPs) and should be coordinated with requirements for on-site water retention, water quality improvements, and runoff control.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 and C-3.3 above. In addition to the mitigation measures mentioned, Mitigation Measure GEO-3 requires the preparation of a site drainage system that includes setbacks from the drainageway. This is also described in C-1.6 above. Mitigation Measure GEO-3 also requires the preparation of an erosion control plan per the current guidelines of the California Stormwater Quality Association’s Best Management Practice Handbook.</p>
<p>S-3.8: Storm Drainage Improvements. Require new development to mitigate potential increases in runoff through a combination of measures, including improvement of local storm drainage facilities. Other measures, such as the use of porous pavement, bioswales, and “green infrastructure” should be encouraged.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 and C-3.3 above.</p>
<p>S-4.3: New Development in Fire Hazard Areas. Design new development to minimize fire hazards. Densities, land uses, and site plans should reflect the level of wildfire risk and evacuation capacity at a given location.</p>	<p><i>Consistent with Conditions</i> The project incorporates a Vegetation Management Plan and a fuel break buffer around the proposed development to reduce risk of uncontrolled wildfire spread. In addition, the project would be constructed pursuant to City of San Rafael development standards for new construction, including installation of fire sprinklers and fire-retardant building materials. The project has been reviewed by the Fire Department and found to be in conformance with fire prevention standards and would not pose a risk to public safety or impact levels of service.</p>
<p>NOISE ELEMENT</p>	
<p>N-1.1: Land Use Compatibility Standards for Noise. Protect people from excessive noise by applying noise standards in land use decisions. The Land Use</p>	<p><i>Consistent with Conditions</i> As documented in the Mitigated Negative Declaration Section XIII, Noise, the acoustical report prepared by Illingworth and Rodkin determined that the project would not generate new noise</p>

<p>Compatibility standards in Table 9-2 are adopted by reference as part of this General Plan and shall be applied in the determination of appropriate land uses in different ambient noise environments.</p>	<p>that would create significant impacts to existing residents. Modern construction techniques, including the use of forced-air mechanical ventilation, and adherence to the standards of the Building Code will ensure that the project complies with noise levels found in the General Plan and the Municipal Code.</p>
<p>N-1.2: Maintaining Acceptable Noise Levels. Use the following performance standards to maintain an acceptable noise environment in San Rafael:</p> <ul style="list-style-type: none"> (a) New development shall not increase noise levels by more than 3 dB Ldn in a residential area, or by more than 5 dB Ldn in a non-residential area. (b) New development shall not cause noise levels to increase above the “normally acceptable” levels shown in Table 9-2. (c) For larger projects, the noise levels in (a) and (b) should include any noise that would be generated by additional traffic associated with the new development. (d) Projects that exceed the thresholds above may be permitted if an acoustical study determines that there are mitigating circumstances (such as higher existing noise levels) and nearby uses will not be adversely affected. 	<p><i>Consistent with Conditions</i> As documented in the Mitigated Negative Declaration Section XIII, Noise, the project would not generate new noise that would create significant impacts to existing residents. In addition, construction best management practices recommended by the report from Illingworth and Rodkin have been included in the conditions of approval and will ensure that noise generated during construction will generate less-than-significant impacts.</p>
<p>N-1.3: Reducing Noise Through Planning and Design. Use a range of design, construction, site planning, and operational measures to reduce potential noise impacts.</p>	<p><i>Consistent with Conditions</i> See N-1.2 above.</p>
<p>N-1.5: Mixed Use. Mitigate the potential for noise-related conflicts in mixed use development combining residential and nonresidential uses.</p>	<p><i>Consistent</i> The proposed grocery store is a compatible land use with the residences and is not expected to be a source of significant noise.</p>
<p>N-1.9: Maintaining Peace and Quiet. Minimize noise conflicts resulting from everyday activities such as construction, sirens, yard equipment, business operations, night-time sporting events, and domestic activities.</p>	<p><i>Consistent with Conditions</i> See N-1.2 above.</p>
MOBILITY ELEMENT	
<p>M-2.5: Traffic Level of Service. Maintain traffic Level of Service (LOS) standards that ensure an efficient roadway network and provide a consistent basis for evaluating the</p>	<p><i>Consistent</i> As documented in the Mitigated Negative Declaration Section XVII Transportation, the project would not exceed the acceptable level of service standards (LOS), LOS D or better, for nearby</p>

<p>transportation effects of proposed development projects on local roadways. These standards shall generally be based on the performance of signalized intersections during the AM and PM peak hours. Arterial LOS standards may be used in lieu of (or in addition to) intersection LOS standards in cases where intersection spacing and road design characteristics make arterial LOS a more reliable and effective tool for predicting future impacts.</p>	<p>intersections. "Upon the addition of project-generated traffic to Existing volumes, all intersections are expected to continue operating acceptably. Under the anticipated Future volumes, all four study intersections are expected to operate acceptably at LOS D or better during both peak hours and would be expected to continue doing so upon the addition of project generated traffic. This is considered a less than significant impact."</p>
<p>M-2.6: Traffic Mitigation Fees. Collect impact fees for new development based on the expected number of trips a project will generate. Fees should be used to implement transportation improvements as directed by City Council resolution.</p>	<p><i>Consistent with Conditions</i> The project is required to pay traffic mitigation fees totaling \$764,280 (\$4,246 x 180) for the 78 net new peak AM and 102 net new peak PM trips.</p>
<p>M-2.8: Emergency Access. Identify alternate ingress and egress routes (and modes of travel) for areas with the potential to be cut off during a flood, earthquake, wildfire, or similar disaster.</p>	<p><i>Consistent</i> The project has been reviewed by the Fire and Police Departments and they have determined that the project would maintain adequate access for emergency services.</p>
<p>M-3.2: Using VMT in Environmental Review. Require an analysis of projected Vehicle Miles Traveled (VMT) as part of the environmental review process for projects with the potential to significantly increase VMT. As appropriate, this shall include transportation projects and land use/policy plans as well as proposed development projects.</p>	<p><i>Consistent</i> As documented in the Mitigated Negative Declaration, Section XVII Transportation, "the project's proposed density and provision of onsite affordable housing would reduce its per capita VMT by 12 percent, thereby resulting in a project-specific rate of 8.4 VMT per capita. This is below the applied VMT significance threshold of 11.3 VMT per capita. Accordingly, the residential component of the project as proposed would be expected to result in a less-than-significant VMT impact." "The project also includes an on-site 5,000 square-foot market available to the public and 5,000 square-foot community center. Based on guidance from the OPR Technical Advisory, local-serving retail such as this can generally be presumed to have a less-than-significant impact on VMT. This presumption is readily validated by the fact that customers of the market and community center will include on-site residents who would not generate VMT when patronizing the market, as well as residents and employees in surrounding areas that would otherwise need to travel a longer distance, mostly by vehicle, to visit a competing retail use. The market and community center would therefore be expected to result in a less-than-significant VMT impact."</p>
<p>M-6.1: Encouraging Walking and Cycling. Wherever feasible, encourage walking and cycling as the travel mode of choice for short trips, such as trips to school, parks, transit stops, and neighborhood services. Safe, walkable neighborhoods with pleasant, attractive streets,</p>	<p><i>Consistent</i> The mixed-use character of the project encourages residents to walk to the proposed grocery store. The Village Commons and South Park recreational areas are easily accessible to pedestrians. The project is located close to a major highway and is within walking distance of nearby transit stops.</p>

bike lanes, public stairways, paths, and sidewalks should be part of San Rafael’s identity.	
COMMUNITY SERVICES AND INFRASTRUCTURE ELEMENT	
CSI-4.2: Adequacy of City Infrastructure and Services. As part of the development review process, require applicants to demonstrate that their projects can be adequately served by the City’s infrastructure. All new infrastructure shall be planned and designed to meet the engineering and safety standards of the City as well as various local service and utility providers.	<i>Consistent</i> See LU-1.2 above. The appropriate utility agencies have reviewed the project and determined that the property can be adequately served with appropriate system upgrades, which have been incorporated into the conditions of approval.
EQUITY DIVERSITY AND INCLUSION ELEMENT	
EDI-2.1: Neighborhood Design for Active Living. Improve the design of San Rafael’s neighborhoods to promote physical activity for all residents, including opportunities for safe walking and cycling, and walkable access to goods and services.	<i>Consistent</i> The mixed-use character of the project promotes pedestrian access to the grocery store and the many recreational features of the project including the South Park area and the Village Commons.
EDI-2.2: Safe Space for Physical Activity. Provide safe physical spaces for children and families to play and be physically active in all neighborhoods, particularly in the Canal area and other neighborhoods where many homes lack outdoor living space.	<i>Consistent</i> The recreational features of the site are located well-away from public roads. The Village Commons is near the internal driveway but speeds will be low on that system. Final design features will include elements to separate children’s play areas from the driveway system. The South Park area is separated from the internal driveway but easily accessible by residents.
EDI-3.2: Affordable Housing Development. Encourage the development of affordable rental housing to meet the needs of all San Rafael households.	<i>Consistent</i> See H-18 below.
HOUSING ELEMENT	
H-2: Design That Fits into the Neighborhood Context. Recognize that construction of new housing and improvements on existing properties can add to the appearance and value of the neighborhood if they fit into the established character of the area. Design new housing, remodels, and additions to be compatible to the surrounding neighborhood. Incorporate transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Respect	<i>Consistent with Conditions</i> Residential development is allowed on the site per the proposed Neighborhood Commercial Mixed-Use Land Use designation. The project is on a vacant hillside parcel adjacent to single-family development to the south and west. Commercial development to the north and east includes a YMCA gymnasium and a Kaiser Health facility. Hwy 101 is just east of the site. The Design Review Board recommended approval of the project design with recommendations for design improvements which have been incorporated into the conditions of approval.

<p>existing landforms and minimize effects on adjacent properties.</p>	
<p>H-3: Public Information and Participation. Provide information on housing programs and related issues. Require and support public participation in the formulation and review of the City’s housing policy, including encouraging neighborhood involvement in development review. Work with community groups to advocate programs that will increase affordable housing supply and opportunities. Ensure appropriate and adequate involvement so that the design of new housing will strengthen the character and integrity of the neighborhood.</p>	<p><i>Consistent</i> See response in CDP-4.2 above.</p>
<p>H-14: Adequate Sites. Maintain an adequate supply of land designated for all types of residential development to meet the housing needs of all economic segments in San Rafael. Within this total, the City shall also maintain a sufficient supply of land for multifamily housing to meet the quantified housing need of very low, low, and moderate income housing units. Encourage development of residential uses in commercial areas where the vitality of the area will not be adversely affected and the site or area will be enhanced by linking workers to jobs, and by providing shared use of the site or area.</p>	<p><i>Consistent</i> This is a mixed-use project that provides 192 units of housing on an in-fill site. It will help accommodate the projected need for 1,007 additional housing units in the City by the year 2023 (Regional Housing Needs Allocation, Page 62 of the Housing Element). A total of 20 of the units will be affordable at the Low Income Level. These would contribute to the City’s need for 148 low-income housing units by the year 2023.</p>
<p>H-18: Inclusionary Housing Requirements. The City of San Rafael first adopted inclusionary requirements in the 1980’s. The City requires residential projects to provide a percentage of affordable units on site and/or pay in-lieu of fees for the development of affordable units in another location. The City’s program requires the units remain affordable for the longest feasible time, or at least 55 years. The City’s primary intent is the construction of units on-site. The units should be of a similar mix and type to that of the development as a whole, and dispersed throughout the development. If this is not practical or not permitted by law, the City will consider other alternatives of equal value, such as in-lieu fees, construction of units off-site, donation of a portion of the property for future</p>	<p><i>Consistent</i> The project will provide 20 units affordable at the Low Income Level, consistent with the standards of the recently-adopted amendments to SRMC Section 14.16.030.</p>

non-profit housing development, etc. Allow for flexibility in providing affordable units as long as the intent of this policy is met	
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SUMMARY OF ORDINANCE NO. 2003

AN ORDINANCE OF THE CITY OF SAN RAFAEL APPROVING A PLANNED DEVELOPMENT REZONING FROM PLANNED DISTRICT – HILLSIDE DEVELOPMENT OVERLAY DISTRICT (PD-H) AND RESIDENTIAL – HILLSIDE DEVELOPMENT OVERLAY DISTRICT (R2A-H) TO PLANNED DEVELOPMENT DISTRICT (PD), FOR THE CONSTRUCTION OF A MIXED-USE PROJECT CONSISTING OF 192 RESIDENTIAL APARTMENT UNITS, A 5,600 SQUARE-FOOT MARKET, A 5,000 SQUARE FOOT COMMUNITY CENTER, AND 225 AT-GRADE AND SEMI-SUBTERRANEAN PARKING SPACES FOR THE 10.24 ACRE SITE LOCATED AT THE SOUTHERLY TERMINUS OF LOS GAMOS DRIVE NORTH OF OLEANDER DRIVE

This Summary concerns a proposed Ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 2003, which will amend the City of San Rafael Zoning Ordinance, Title 14 of the San Rafael Municipal Code, as detailed in the complete text of Ordinance No. 2003. Ordinance No. 2003 is scheduled for adoption by the San Rafael City Council at its regular meeting of February 22, 2022. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

This Ordinance amends the Zoning Map of the City of San Rafael to reclassify certain real property located at the southerly terminus of Los Gamos Drive north of Oleander Drive (APNS: 165-220-06 AND 165-220-07) in the City of San Rafael, Marin County, California, from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development (PD-2003) District. PD-2003 establishes development standards and land use regulations that would allow for the construction of a mixed-use project consisting of 192 residential apartment units, a 5,600 square-foot market, a 5,000 square-foot community center, and 225 at-grade and semi-subterranean parking spaces.

For a complete copy of the text of the Ordinance amending the Municipal Code, please contact the City Clerk at (415) 485-3066 or the Community Development Department, Planning Division at (415) 485-3085. Copies of the Ordinance containing this Municipal Code amendment are also available for public review by contacting the City Clerk's office by email to Lindsay.lara@cityofsanrafael.org

LINDSAY LARA,
San Rafael City Clerk

Dated: 02/09/2022



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Finance

Prepared by: Nadine Atieh Hade,
Finance Director

City Manager Approval: _____

TOPIC: ANNUAL AUDIT OF FEDERAL GRANT EXPENDITURES

SUBJECT: SINGLE AUDIT REPORT FOR THE YEAR ENDED JUNE 30, 2021

RECOMMENDATION: ACCEPT REPORT

BACKGROUND: Federal regulations provide that any local agency receiving or expending \$750,000 or more in combined federal grant funds, either directly or indirectly in a fiscal year, is subject to a separate audit on those programs. This threshold was reached in fiscal year 2020-2021 and, therefore, a separate (Single Audit) report was required. The firm of Maze and Associates Accountancy Corporation, who also performed the City's financial audit, conducted the Single Audit for fiscal year 2020-2021.

ANALYSIS: The City incurred a total of \$8,206,522 in federal expenditures during fiscal year 2020-2021 that fell under the parameters of the audit. The auditor identified one major program to be audited, Highway Planning and Construction (Federal-Aid Highway Program). Funds from this program supported the Southern Heights bridge replacement, Third Street at Hetherton intersection improvements, Francisco Boulevard East sidewalk improvements, the Third Street safety improvement study, and the Innovative Deployments to Enhance Arterials (IDEA) project.

As required under the Single Audit Act, a number of separate reports are contained within this document. Most of these reports comment on either compliance with Federal assistance regulations or recommendations regarding the City's accounting practices. The auditor issued the reports with an unmodified opinion and certain reported deficiencies in internal control listed on the Schedule of Significant Deficiencies included as part of the Memorandum on Internal Control issued November 15, 2021, which also contains the City's response to such matters.

Noted deficiencies included inaccurate building permit fees on the Master Fee Schedule posted to the City website and incorrect preparation of the Schedule of Expenditures of Federal Awards for the fiscal year ended June 30, 2020. Both issues have been adequately addressed and remedies have been implemented.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

One other finding relating to the timeliness of a payment was noted on the Accounting Issues Memo. An invoice dated September 28, 2020, was not paid until January 12, 2021, following complications related to the corresponding purchase order. The finding at hand was anomalous and not indicative of any larger issue.

FISCAL IMPACT: There is no fiscal impact resulting from the acceptance of this report.

RECOMMENDED ACTION: Accept Report.

ATTACHMENT: Single Audit Report for the Year Ended June 30, 2021

CITY OF SAN RAFAEL
SINGLE AUDIT REPORT
FOR THE YEAR ENDED JUNE 30, 2021

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CITY OF SAN RAFAEL
SINGLE AUDIT REPORT
For The Year Ended June 30, 2021

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CITY OF SAN RAFAEL

**SCHEDULE OF FINDINGS AND QUESTIONED COSTS
For The Year Ended June 30, 2021**

SECTION I – SUMMARY OF AUDITOR’S RESULTS

Financial Statements

Type of report the auditor issued on whether the financial statements audited were prepared in accordance with GAAP Unmodified

Internal control over financial reporting:

- Material weakness(es) identified? Yes X No
- Significant deficiency(ies) identified? X Yes None Reported

Noncompliance material to financial statements noted? Yes X No

Federal Awards

Internal control over major federal programs:

- Material weakness(es) identified? Yes X No
- Significant deficiency(ies) identified? Yes X None Reported

Type of auditor’s report issued on compliance for major federal programs: Unmodified

Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)? Yes X No

Identification of major program(s):

Assistance Listing #(s)	Name of Federal Program or Cluster
<u>20.205</u>	<u>Highway Planning and Construction (Federal-Aid Highway Program)</u>

Dollar threshold used to distinguish between type A and type B programs: \$750,000

Auditee qualified as low-risk auditee? Yes X No

SECTION II – FINANCIAL STATEMENT FINDINGS

Our audit disclosed significant deficiencies, but no material weaknesses or instances of noncompliance material to the basic financial statements. We have also issued a separate Memorandum on Internal Control dated November 15, 2021, which is an integral part of our audits and should be read in conjunction with this report.

SECTION III – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Our audit did not disclose any findings or questioned costs required to be reported in accordance with Uniform Guidance.

CITY OF SAN RAFAEL

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
For the Fiscal Year Ended June 30, 2021

Federal Grantor/ Pass-Through Grantor/Program or Cluster Title	Federal Assistance Listing Number	Pass-Through Identifying Number	Federal Expenditures
Department of Housing and Urban Development Program Passed Through from County of Marin, California Community Development Block Grants/Entitlement Grants Childcare	14.218	40CDBG21CD4527	<u>\$21,500</u>
Department of Health and Human Services Passed Through from the California Health and Human Services Agency Medical Assistance Program (Medicaid; Title XIX) Department of Health Care Services - Ground Emergency Medical Transportation	93.778	SFY 2013-14	<u>118,007</u>
Department of Transportation Highway Planning and Construction (Federal-Aid Highway Program) Passed Through from State of California Department of Transportation			
Southern Heights Bridge Replacement	20.205	BRLO-5043(038)	2,006,782
Third St at Hetheron Intersection Improvement	20.205	HSIPL-5043(040)	205,243
Francisco Blvd East Sidewalk Improvements	20.205	ATPL-5043(042)	4,136,701
Third Street Safety Improvement Study	20.205	HSIPL-5043(043)	176,538
Passed Through from Metropolitan Transportation Commission Innovative Deployments to Enhance Arterials (IDEA)	20.205	STPLNI-6084(227)1842	<u>708,146</u>
Program Subtotal			<u>7,233,410</u>
State and Community Highway Safety Passed Through from California Office of Traffic Safety			
Selective Traffic Enforcement Program FY2020	20.600	PT20162	26,094
Selective Traffic Enforcement Program FY2021	20.600	PT21141	<u>56,638</u>
Program Subtotal			<u>82,732</u>
Total Department of Transportation			<u>7,316,142</u>
Department of Homeland Security Passed Through from the City and County of San Francisco, California Homeland Security Grant Program Bay Area Urban Areas Security Initiative (UASI)	97.067	075-95017	<u>12,428</u>
Department of the Treasury Passed Through from the State of California COVID-19 -Coronavirus Relief Fund	21.019	281	<u>738,445</u>
Total Expenditures of Federal Awards			<u><u>\$8,206,522</u></u>

See Accompanying Notes to Schedule of Expenditures of Federal Awards

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CITY OF SAN RAFAEL

**NOTES TO THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
For The Year Ended June 30, 2021**

NOTE 1 – REPORTING ENTITY

The Schedule of Expenditure of Federal Awards (the Schedule) includes expenditures of federal awards for the City of San Rafael, California and its component units as disclosed in the notes to the Basic Financial Statements, except for federal awards of the San Rafael Sanitation District (District). Federal awards expended by this entity, if any, are excluded from the Schedule and are subject to a separate Single Audit performed by other auditors.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of accounting refers to *when* revenues and expenditures or expenses are recognized in the accounts and reported in the financial statements, regardless of the measurement focus applied. All governmental funds are accounted for using the modified accrual basis of accounting. All proprietary funds and fiduciary funds are accounted for using the accrual basis of accounting. Expenditures of Federal Awards reported on the Schedule are recognized when incurred.

NOTE 3 – INDIRECT COST ELECTION

The City has elected not to use the 10% de minimis indirect cost rate allowed under the Uniform Guidance.

NOTE 4 – CORONAVIRUS RELIEF PROGRAM (AL# 21.019)

The Schedule for the year ended June 30, 2021 includes expenditures for the Coronavirus Relief Program (AL# 21.019) for the period of March 1, 2020 to December 31, 2020. The period of performance for the grant was March 1, 2020 to December 31, 2020, but to receive the funding, the City was required to file a certification with the State Department of Finance by July 10, 2020 that the City will use the funds consistent with federal requirements, adhere to health orders and directives, return unspent funds, and repay any disallowed costs, among other compliance certifications. The City's certification was filed on July 7, 2020.

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**INDEPENDENT AUDITOR'S REPORT ON
INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN
AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE
WITH *GOVERNMENT AUDITING STANDARDS***

To the Honorable Members of the City Council
City of San Rafael, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City as of and for the year ended June 30, 2021, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated November 15, 2021. Our report includes a reference to other auditors who audited the financial statements of the discretely presented component unit, the San Rafael Sanitation District, as described in our report on City's financial statements. This report does not include the results of the other auditors' testing of internal control over financial reporting and compliance and other matters that are reported on separately by those other auditors. Our report also included an emphasis of a matter paragraph disclosing the implementation of new accounting principles.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that have not been identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses.

We identified certain deficiencies in internal control as listed on the Schedule of Significant Deficiencies included as part of our separately issued Memorandum on Internal Control dated November 15, 2021, which is an integral part of our audit and should be read in conjunction with this report that we consider to be significant deficiencies.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

City's Response to Findings

The City's response to the findings identified in our audit are described in our separately issued Memorandum on Internal Control dated November 15, 2021, which is an integral part of audit and should be read in conjunction with this report. The City's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.



Pleasant Hill, California
November 15, 2021

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR
PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE;
AND REPORT ON THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
REQUIRED BY THE UNIFORM GUIDANCE**

To the Honorable Members of the City Council
City of San Rafael, California

Report on Compliance for Each Major Federal Program

The City of San Rafael's basic financial statements include the operations of the discretely presented component unit, the San Rafael Sanitation District, which is not included in the Schedule during the year ended June 30, 2021. Our audit, described below, did not include the operations of the San Rafael Sanitation District, because the District engaged other auditors and the District did not expend federal awards for the year ended June 30, 2021.

We have audited the City's compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of the City's major federal programs for the year ended June 30, 2021. The City's major federal programs are identified in the summary of auditor's results section of the accompanying Schedule of Findings and Questioned Costs.

Management's Responsibility

Management is responsible for compliance with federal statutes, regulations, and the terms and conditions of its federal awards applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of the City's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of the City's compliance.

Opinion on Each Major Federal Program

In our opinion, the City complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2021.

Report on Internal Control Over Compliance

Management of the City is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the City's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City as of and for the year ended June 30, 2021, and the related notes to the financial statements, which collectively comprise the City's basic financial statements. We issued our report thereon dated November 15, 2021, which contained an unmodified opinion on those financial statements. Our report includes a reference to other auditors who audited the discretely presented component unit financial statements of the San Rafael Sanitation District as of and for the year ended June 30, 2021, as described in our report on the City's financial statements. Our report, in so far as it relates to the results of the other auditors, is based solely on the report of the other auditors. Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the financial statements as a whole.

Mane & Associates

Pleasant Hill, California
February 4, 2022

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SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager’s Office

**Prepared by: Cory Bytof,
Sustainability Program Manager**

City Manager Approval: _____

TOPIC: SB 1383 LOCAL ASSISTANCE GRANT

SUBJECT: RESOLUTION AUTHORIZING SUBMITTAL OF APPLICATIONS FOR ALL CALRECYCLE GRANT AND PAYMENT PROGRAMS AND RELATED AUTHORIZATIONS FOR WHICH THE CITY OF SAN RAFAEL IS ELIGIBLE

RECOMMENDATION

Adopt a Resolution of the City Council of the City of San Rafael authorizing submittal of an application for all CalRecycle grant and payment programs and related authorizations for which the City of San Rafael is eligible.

BACKGROUND

State Law

In 2014, recognizing the negative impacts of organic materials decomposing in landfills on climate change, the State of California enacted Assembly Bill (AB) 1826 mandating that businesses with certain thresholds of refuse disposal compost their organic materials. Beginning in 2022 [Senate Bill \(SB\) 1383](#), enacted in 2017, will require that all residents and businesses divert their organic waste and recover edible food. SB 1383 will also place new requirements on local governments to implement, monitor and enforce participation in organic waste diversion programs, and the California Department of Resources Recycling and Recovery (CalRecycle) will be authorized to levy fines upon local governments that don’t comply. The Marin Sanitary Service franchisors group have been working with R3 Consulting Group, Inc. to ensure compliance with SB 1383 and assess opportunities to create economies of scale working together to implement the law.

City Responsibilities

Under SB 1383, every local government in California must conduct the following activities:

- Collection: must provide organic waste collection to all residents and businesses
- Food Recovery: must establish an edible food recovery program
- Education and Outreach: must provide information to residents, businesses, and edible food donors in multiple languages
- Procurement: must procure recycled organic waste products from approved vendors

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

annually

- Enforcement: must conduct inspections and enforce compliance, including issuing fines
- Recordkeeping and Reporting: must maintain accurate and timely records and report to Cal Recycle annually

One of the most challenging aspects of the law is the procurement requirement. Currently the City procures less than 1% of the annual requirement of recycled organic waste products (compost or mulch) under the law. Complying with this requirement will pose significant challenges both in terms of staff time and resources. Fortunately, Cal Recycle has relaxed timelines for this requirement, acknowledging the challenges cities will face in meeting them.

Cal Recycle has released a non-competitive Local Assistance grant program to assist local jurisdictions in early implementation of the law. It was released on January 7, 2022 with a deadline of February 1, 2022. The City has applied for and intends to utilize the Local Assistance grant to conduct a procurement and use analysis to determine how we can best implement this portion of the law considering costs, efficiency, partnerships, and best uses, which may include options that can help sequester carbon in other locations in the county.

ANALYSIS

Although the City could apply solely for this Local Assistance grant, it is being recommended by Cal Recycle that each jurisdiction apply for the full suite of Cal Recycle offerings so we do not have to adopt additional Resolutions for future grant opportunities. This Resolution would allow the City Manager or his designee to apply for and receive grants for a period of five years – the maximum amount of time allowed by Cal Recycle.

City staff have worked with R3 Consulting Group, Inc. and our partner Marin Sanitary Service franchising agencies to apply for a similar grant application so we can work together to conduct a request for proposals and continue to collaborate on SB 1383 implementation. This franchisors' group includes the towns of Fairfax, Larkspur, Ross, and San Anselmo, the County of Marin, and the Las Gallinas Valley Sanitary District. Under this Local Assistance grant the City is estimated to receive \$78,425, which is set by Cal Recycle based on population. Staff has submitted the grant application and this Resolution is required as part of the application to be adopted and included by March 1, 2022.

COMMUNITY OUTREACH

This item was posted as part of our normal City Council agenda process and was sent out via the City Manager's Snapshot and other agenda posting procedures.

FISCAL IMPACT

Should the City receive the grant, we would receive up to \$78,425 to use for a procurement analysis. Any leftover funds from the analysis would go toward our annual procurement requirement but could be redirected based on the analysis upon amendment of the application and approval from Cal Recycle.

OPTIONS

1. Adopt a Resolution of the City Council of the City of San Rafael authorizing submittal of an application for all CalRecycle grant and payment programs and related authorizations for which the City of San Rafael is eligible.
2. Do not adopt a Resolution of the City Council of the City of San Rafael authorizing submittal of an application for all CalRecycle grant and payment programs and related

authorizations for which the City of San Rafael is eligible and forego the grant.

RECOMMENDED ACTION

Adopt a Resolution authorizing submittal of an application for all CalRecycle grant and payment programs and related authorizations for which the City of San Rafael is eligible.

ATTACHMENTS

Attachment A: Resolution

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
AUTHORIZING SUBMITTAL OF APPLICATIONS FOR ALL CALRECYCLE GRANT
AND PAYMENT PROGRAMS AND RELATED AUTHORIZATIONS FOR WHICH THE
CITY OF SAN RAFAEL IS ELIGIBLE**

WHEREAS, Public Resources Code sections 48000 et seq., 14581, and 42023.1(g), authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant and payment programs in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the administration of the payment programs; and administration of the application, awarding, and management of the grant programs; and

WHEREAS, CalRecycle's procedures for administering payment programs require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the payment and grant program;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES RESOLVE: that the City of San Rafael is authorized to submit an application to CalRecycle for any and all grant and payment programs offered; and

BE IT FURTHER RESOLVED that the City Manager, or his/her designee, is hereby authorized and empowered to execute in the name of the City of San Rafael all documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure funds and implement the approved grant or payment project; and

BE IT FURTHER RESOLVED that these authorizations are effective from the date of adoption through February 21, 2027.

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 City Council of the City of San Rafael, held on Tuesday, February 22, 2022, by the following vote, to wit:

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

LINDSAY LARA, City Clerk



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Economic Development

Prepared by: Danielle O'Leary,
Economic Development Director

City Manager Approval: _____

TOPIC: ANNUAL MEASURE G OVERSIGHT COMMITTEE REPORT

SUBJECT: MEASURE G CANNABIS BUSINESS TAX OVERSIGHT COMMITTEE REPORT FOR FISCAL YEAR 2020-2021

RECOMMENDATION: Accept report.

BACKGROUND: On March 6, 2018, the San Rafael City Council voted by [Resolution No. 14542](#) to place Measure G, the Commercial Cannabis Business Tax on the June 5, 2018 ballot. [Ordinance No. 1961](#) was approved by San Rafael voters establishing an ongoing tax on cannabis businesses of up to 8% on gross receipts for cannabis businesses operating in the City of San Rafael. Different sectors of the cannabis industry are taxed at different tax rate structures. Currently, testing labs are taxed at 1%, cannabis infusion manufacturers at 3%, cannabis wholesale distribution at 1%, and cannabis retail non-storefront delivery at 4%.

Similar to previous voter measures, Measure S and Measure E, the enabling Cannabis Business Tax Ordinance for Measure G called for the creation of an independent oversight committee to review the collection and expenditure of this tax revenue. The committee was established on October 21, 2019 by City Council [Resolution No. 14731](#), which set forth the roles, responsibilities and duties of the committee. The current members are:

- Chuck Friede – January 1, 2022 to February 28, 2024
- Abi Rivas - February 18, 2020 to February 28, 2024
- Stephen Roth – February 18, 2020 to February 28, 2024
- Erik Revai – February 18, 2020 to February 28, 2024
- Vacant position – recruitment TBD.

The purpose of this report is to present and recommend acceptance of the Measure G Oversight Committee report of February 10, 2022 (Exhibit A).

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

ANALYSIS:

The Measure G Oversight Committee met virtually on February 10, 2022, to review the actual Measure G revenues and expenditures for fiscal year 2020-2021. Staff reported that during the fiscal year 2020-2021, \$141,493 of Measure G Cannabis Business Tax proceeds were expended. Authorized Measure G expenditures to maintain/enhance City of San Rafael services include:

- Administer a cannabis oversight program
- Enhance police and fire services
- Repair potholes, maintain city streets and sidewalks
- Enhance community centers and facilities

The Measure G Cannabis Business Tax Oversight Committee’s report provides the Committee’s conclusions that Measure G revenues received during fiscal year 2020-2021, were “properly allocated in accordance with Measure G and approved guidelines.”

FISCAL IMPACT: There is no fiscal impact associated with the acceptance of the Measure G Cannabis Business Tax Oversight Committee report.

RECOMMENDED ACTION: Accept the Measure G Cannabis Business Tax Oversight Committee Report for Fiscal Year 2020-2021.

ATTACHMENT:

Exhibit A: Measure G Oversight Committee Report

City of San Rafael
Measure G Oversight Committee Report

February 10, 2022

The City of San Rafael Measure G Oversight Committee met on February 10, 2022, and received a report from the City of San Rafael’s Finance Director, Nadine Atieh Hade on the receipt and expenditure of funds during the fiscal year July 1, 2020 to June 30, 2021 pursuant to voter approved Measure G (San Rafael Ordinance 1961).

The Measure G Oversight Committee is required to review the collections and expenditures of Measure G funds, and report to the City Council and the community annually on the expenditures under Guidelines and Policy adopted by the San Rafael City Council.

After review, the Measure G Oversight Committee finds that these funds were properly allocated in accordance with the Measure and approved guidelines.

Respectfully Submitted:

Approved via email 02/10/2022 _____ Erik Revai, Measure G Oversight

Approved via email 02/10/2022 _____ Abi Rivas, Measure G Oversight

Approved via email 02/10/2022 _____ Chuck Friede, Measure G Oversight




Agenda Item No: 5.h
Meeting Date: February 22, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Library & Recreation

Prepared by: Catherine Quffa,
Assistant Library & Recreation
Director

City Manager Approval: _____ 

TOPIC: LAND AND WATER CONSERVATION FUND APPLICATION FOR PICKLEWEED PARK ENHANCEMENT PROJECT

SUBJECT: RESOLUTION APPROVING THE APPLICATION FOR LAND AND WATER CONSERVATION FUND FOR THE PICKLEWEED PARK ENHANCEMENT PROJECT

RECOMMENDATION:

Adopt resolution approving the application for Land and Water Conservation Fund for the Pickleweed Park Enhancement Project.

BACKGROUND:

On February 14, 1963, President Kennedy’s Administration proposed legislation to establish a "Land and Water Conservation Fund" (LWCF) to assist States in planning, acquisition, and development of recreation lands. With bipartisan support, President Johnson signed Public Law 88-578 (the “Act”) into law on September 3, 1964. The National Park Service (NPS) administers the LWCF program at the federal level. Funds allocated to California are administered by the California Department of Parks and Recreation. Outer Continental Shelf mineral receipts, sales of federal surplus real property, federal recreation fees, and federal motorboat fuel taxes all serve as funding sources for the LWCF. When an LWCF project is completed, the land within the boundary map approved under Section 6(f)(3) of the Act is placed under federal protection to preserve the public’s outdoor recreational use of the site in perpetuity for the benefit of our nation’s future generations.

The State is currently accepting applications for LWCF funding for park acquisition and development projects. Up to \$45 Million in grant requests will be selected from the competitive 2022 application cycle. The maximum grant request is \$6,000,000 with a required 50% agency match. To qualify for the grant, park projects must meet at least one of the following criteria:

- 1. New Park Access**
 - a. Create or expand parks in communities that lack sufficient park space. Create new parks within a half mile of underserved communities, or expand existing parks to increase the

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ratio of park acreage per resident in underserved areas. This may include innovative solutions such as acquiring private land from willing sellers such as vacant lots and blighted buildings, converting streets to create or expand parks, or converting closed schools.

- b. Acquire private land from willing sellers in natural areas to expand regional parks, or create new open space areas for outdoor recreation while preserving nature.

2. Multi-Use Parks Designed for All Age Groups in New or Existing Parks

- a. Construct recreation features designed to bring families together by supporting art and music, sports, and multi-generational activities.
- b. Construct recreation features for all age groups to support different active and passive recreation interests of all ages.
- c. Incorporate project design ideas from all age groups.

3. Health Design Goals for New or Existing Parks

- a. Include recreation features resulting from asking community members for their park design ideas for public health.

4. Safety and Beautification for New or Existing Parks

- a. Construct lighting for night-time use, or restrooms, landscaping, signs, or other enhancements to make the park appear welcoming and support longer hours of use.

5. Preservation

- a. Through the LWCF, place outdoor open space land under new 6(f)(3) protection for public recreation.

Based on these guidelines, Pickleweed Park, located at the Albert J. Boro Community Center and which serves the Canal neighborhood, best qualifies for this grant opportunity. This grant opportunity is consistent with the City's longstanding goal to convert the soccer fields at Pickleweed Park from natural to synthetic turf, and to enhance the surrounding park amenities.

ANALYSIS:

The City of San Rafael has applied for state funding previously for different variations of the Pickleweed Park Enhancement project, in 2010, 2011, 2016, and 2021. Converting the Pickleweed Field to synthetic turf has been a critical park priority for the Canal community since 2010 and Pickleweed Park Enhancement project would best qualify under the LFCW priority criteria.

Currently, the Pickleweed Fields are closed for six (6) months of the year for maintenance and to provide opportunity for the grass turf to regenerate. Converting the fields to synthetic turf would allow them to remain open year-round, thereby doubling community access to this recreational amenity. In addition to converting the fields to synthetic turf, the project would add new amenities including: fitness equipment, a basketball/sport court, new play structure for children under five, a gazebo, a community mural, backstops for little league on the fields, shaded seating throughout the park, an improved bathroom, and additional parking. These amenities were identified as priorities by Canal residents through a robust community engagement process.

The project plan also integrates environmentally friendly design, such as native and drought-tolerant landscaping, additional trees, bioswales and water filtration techniques, and improved LED lighting throughout the park and parking lot. More details on the project amenities and design can be found in Attachment 2.

The total funding request for the Pickleweed Park Enhancement project is \$4,240,000 from LWCF with a required match of \$4,240,00.

COMMUNITY OUTREACH:

From July through September, 2020, the City conducted a community outreach process to garner input on the design of the Pickleweed Park Enhancement Project. Staff presented the project scope to community members and solicited feedback during two virtual meetings, held in partnership with the Canal Alliance and the Multicultural Center of Marin. Additionally, staff went to three community events held in the Canal neighborhood (two food distribution events and one youth event at the Albert J. Boro Community Center) to gather one-on-one feedback on amenities community members would like to see in the project. Finally, staff created an online community survey to gather additional feedback on the project. The survey was sent out through the City's Canal-specific social media channels, posted on the Pickleweed Park electronic sign, and was also pushed out by community partners, including San Rafael City Schools, the Marin Community Clinic, the Canal Alliance, Parent Services Project, and the Marin Asian Advocacy Project.

Additionally, the Pickleweed Park Enhancement Project was presented to the Park and Recreation Commission as part of the Measure A work plan on May 16, 2019. During that time, the Commission recommended that Measure A funds be used to support the community engagement and design process. The use of Measure A funds for this purpose was approved by City Council on June 17, 2019.

FISCAL IMPACT:

The LWCF Grant requires a 50% project match from the agency to be eligible for funding. With a \$4,240,000 funding request, the City must provide \$4,240,000 in matching funds. By utilizing American Rescue Plan and other grant funds on projects and initiatives normally funded by the General Fund, the City will be able to accumulate and earmark \$4,240,000 from the General Fund for the purpose of this matching requirement.

OPTIONS:

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

1. Adopt the resolution approving the application for Land and Water Conservation Fund for the Pickleweed Park Enhancement Project.
2. Adopt the resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt resolution approving the application for Land and Water Conservation Fund for the Pickleweed Park Enhancement Project.

ATTACHMENTS:

1. Resolution for Land and Water Conservation Fund Application
2. Pickleweed Park Enhancement Project Conceptual Site Plan

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING THE APPLICATION FOR LAND AND WATER CONSERVATION FUND FOR THE PICKLEWEED PARK ENHANCEMENT PROJECT

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a federal Land and Water Conservation Fund Grant-In-Aid program, providing matching funds to the State of California and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes; and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing applications by local agencies under the program; and

WHEREAS, the City wishes to apply for Land and Water Conservation Fund assistance for the proposed Pickleweed Park Enhancement Project; and

WHEREAS, the applicant must certify by resolution the approval of the application and the availability of eligible matching funds prior to submission of the application to the State;

NOW, THEREFORE BE IT RESOLVED, that the City Council hereby:

1. Approves the filing of an Application for Land and Water Conservation Fund assistance for the proposed Pickleweed Park Enhancement Project;
2. Agrees to abide by Section 6(f)(3) of Public Law 88-578 which states "No property acquired or developed with assistance under this section shall, without the approval of the National Secretary of the Interior, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location."
3. Certifies that said agency has matching funds from eligible source(s) and can finance 100 percent of the Project, up to half of which may be reimbursed; and
4. Appoints the City Manager as agent of the City to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable

current state and federal laws which may be necessary for the completion of the
aforementioned Project.

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 Tuesday, the 22nd day of February 2022,
by the following vote, to wit:

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

Lindsay Lara, City Clerk

SAN RAFAEL CANAL

FUTURE TISCORNIA MARSH RESTORATION

FUTURE TISCORNIA MARSH RESTORATION

LEGEND

- 1** MULTI-USE FIELD WITH SYNTHETIC TURF, LINED FOR VARIOUS SPORTS
- 2** BASKETBALL/SPORT COURT
- 3** PLAY STRUCTURE FOR CHILDREN UNDER 5
- 4** FITNESS EQUIPMENT FOR ADULTS
- 5** RENOVATED RESTROOM WITH COMMUNITY MURAL
- 6** SHADED SEATING
- 7** DROUGHT RESISTANT LANDSCAPING, BIOSWALES, TREES, AND OTHER BENEFICIAL LANDSCAPING
- 8** GAZEBO
- 9** ADDITIONAL PARKING
- 10** ADDITIONAL LIGHTING AND SECURITY CAMERAS FOR IMPROVED SECURITY



PICKLEWEED PARK ENHANCEMENT PROJECT

50 CANAL ST. SAN RAFAEL, CALIFORNIA 94901

CONCEPTUAL PLAN

11.09.2020





SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: CITY ATTORNEY

**Prepared by: Lisa Goldfien,
Assistant City Attorney**

City Manager Approval: _____

TOPIC: 2021-2022 CITY COUNCIL REDISTRICTING PROCESS

SUBJECT: THIRD PUBLIC HEARING ON EXISTING COUNCIL DISTRICT LINES AND POSSIBLE CHANGES

RECOMMENDATION:

Receive a presentation by the City’s demographic consultant regarding proposed draft maps adjusting the four City Council electoral districts in light of the 2020 Census, hold a public hearing to receive public comment concerning the draft maps, and then provide any direction to the demographic consultant regarding revisions to the maps for consideration at the final public hearing scheduled for March 21.

BACKGROUND:

On [April 16, 2018](#), the City Council adopted [Ordinance No. 1956](#), approving the move from at-large voting to “by-district” voting for council elections, in which each member of the Council must reside in a district and is elected only by the voters within that district, and approving the district map designated as “[Canal 3B](#).” The City’s first general municipal election using the new City Council districts was held on November 3, 2020, for the City Council seats in District Districts 1/South and 4/North. The first elections in Districts 2/West and 3/East will be held on November 8, 2022.

Even though the City created its four electoral districts only three years ago, Elections Code § 21621 requires that the redistricting process occur again following each federal decennial census to rebalance the districts’ populations in light of the most recent data available. The most recent decennial census was conducted in 2020, and the Bureau released its “PL94-171” redistricting data on August 12, 2021. However, under changes to California law adopted in 2019, known as the FAIR MAPS Act, the City is required to use data from the California Statewide Database at UC Berkeley (“SWDB”), which “adjust the Census Bureau’s data to account for legislatively-required reallocation of incarcerated felons within the State. (See Elec. Code § 21621(a)(2).) Those adjusted data were released on September 21, 2021, and a corrected version of the data was released on September 27, 2021.

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At its meeting on July 19, 2021, the Council received a presentation regarding the redistricting process from the City's special counsel, Chris Skinnell of Nielsen Merksamer Parrinello Gross & Leoni, after which the Council approved the timeline for the redistricting process. At its September 13 meeting, the Council received a further presentation from Mr. Skinnell summarizing the legal rules governing the readjustment of district lines and the preliminary demographics of the existing districts based on the PL94-171 data. At its meeting on November 15, 2021, the Council received updated information regarding the final "adjusted" demographics of the existing districts based on the SWDB data, after which the Council conducted a duly-noticed public hearing to receive public testimony regarding the composition of the districts, especially communities of interest. At its meeting on January 18, 2022, the Council conducted another duly-noticed public hearing to receive public testimony regarding the composition of the districts, especially communities of interest.

Pursuant to the FAIR MAPS Act, the Council is required to conduct four public hearings, the first two of which focused on receiving feedback from the Council and the public regarding the current lines, and desired changes, and the City's communities of interest, and the last two of which are to focus on actual draft maps to readjust the Council districts.

This is the third of the four required public hearings and the first of the post-mapping public hearings. The final public hearing is scheduled for March 21, 2022. The statutory deadline for completion of the redistricting process is April 17, 2022.

ANALYSIS:

At the meeting, the City's demographic consultant, Ms. Kristen Parks of National Demographics Corporation ("NDC"), will present proposed draft maps to readjust the Council district boundaries, and the Council will again be asked to conduct a public hearing to receive feedback from the public regarding the draft maps.

The following is a summary of the main substantive legal requirements for the redistricting process:

- 1) The districts must be "substantially equal" in population as defined by the Supreme Court.
- 2) The districts must comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.)
- 3) The districts must comply with constitutional restrictions on "racial gerrymandering."
- 4) Subject to the constitutional and federal law requirements noted in paragraphs (1) – (3), voting districts must be established according to four statutory criteria, ranked in order of priority:
 - To the extent practicable, council districts shall be geographically contiguous. Areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous.
 - To the extent practicable, the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division. A "community of interest" is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates.

- Council district boundaries should be easily identifiable and understandable by residents. To the extent practicable, council districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the city.
- To the extent practicable, and where it does not conflict with the preceding criteria in this subdivision, council districts shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.

As discussed at the last meeting, the current district lines comply with the first three criteria above, and they are contiguous, so if the Council believes they adequately respect communities of interest retention of the current lines would be an option.

NDC has also prepared a second option for the Council to consider in light of the discussion at the January 2022 meeting. That option, labeled the “NDC Minimal Change Map” begins with the current lines but makes discrete changes to reduce the population imbalance (to 5.55% compared to 8.53% under the current map).

Online versions of the maps that would allow a viewer to zoom in down to the street level are available on the City’s redistricting website, under the “[Draft Maps](#)” tab. To date, no proposed maps have been submitted to the City by the public.

COMMUNITY OUTREACH:

As staff advised the Council at the September, November and January meetings, the City has established a City redistricting website with all pertinent documents in both English and Spanish. It can be found at <https://redistrictsanrafael.org/>. By visiting that website, members of the public can also submit proposed district maps for the Council’s consideration, using either a paper mapping kit or online mapping tools. Staff is also conducting additional outreach to interested community groups, media organizations, and other interested parties.

FISCAL IMPACT:

There is no fiscal impact from the recommended City Council action. Completion of the redistricting process will incur expenses of approximately \$50,000 in consulting attorney’s fees and \$60,000 in consulting demographer’s fees (including the online mapping tool), in addition to regular staff time. Sufficient funds have been included in the budget to cover these expenses.

OPTIONS:

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

1. Accept the information report on the proposed draft maps, conduct the third public hearing, and provide any guidance to the demographers re possible revisions to the draft maps if any are desired.
2. Take no action.

RECOMMENDED ACTION:

Move to accept the informational report regarding the City Council redistricting process, conduct the public hearing, and provide guidance to the demographer.

ATTACHMENTS:

1. PowerPoint Presentation

City of San Rafael



Redistricting Public Hearing #3

National Demographics Corporation

San Rafael's Transition to Districts

Date	Event	
November 10, 2017	City received letter alleging violation of the California Voting Rights Act (CVRA)	} Districting
January 16, 2018	Council passed resolution to change to district elections	
April 16, 2018	Council adopted district map	
November 3, 2020	Elections for Districts 1 & 4	
2021 - 2022	Districts must be redrawn to reflect 2020 Census data	← Redistricting

Redistricting Timeline

Date	Event
<input checked="" type="checkbox"/> August 12, 2021	Release of 2020 Census data
<input checked="" type="checkbox"/> September 27, 2021	Release of California's official redistricting data
<input checked="" type="checkbox"/> November 15, 2021	Public Hearing #1
<input checked="" type="checkbox"/> January 18, 2022	Public Hearing #2
February 22, 2022	Public Hearing #3
March 21, 2022	Public Hearing #4
April 17, 2022	Legal deadline for Council to adopt redistricting plan
November 8, 2022	First election with new map

Legal Criteria for Redistricting

Federal Law

- ✓ Ensure equal population*
- ✓ Comply with federal Voting Rights Act
- ✓ Avoid racial gerrymandering

* Total population deviation < 10%

California Law

1. Ensure geographic **contiguity**
 2. Minimize division of neighborhoods & **“communities of interest”**
 3. Create easily identifiable boundaries
 4. Maintain **compactness**
- ✓ Do not “favor or discriminate against a political party”

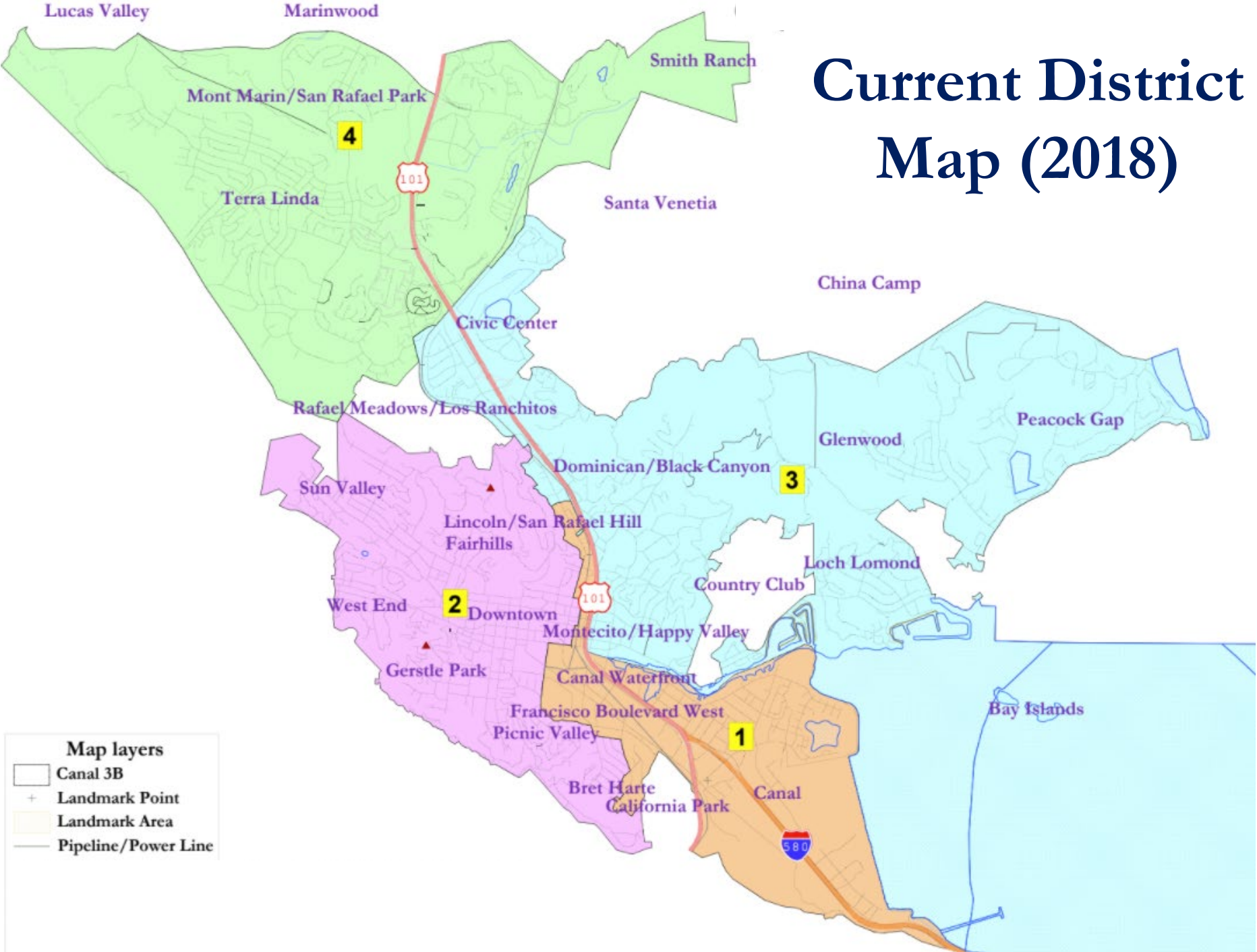
Traditional Criteria

May include:

- Preserve core of existing districts
- Minimize changes to election cycles

Do not bypass a nearby population to take in a more distant population

Current District Map (2018)



- Map layers**
- Canal 3B
 - + Landmark Point
 - Landmark Area
 - Pipeline/Power Line

✓ Current Districts Are Pop. Balanced

District		1	2	3	4	Total
2020	2020 Census (Adjusted)	14,853	15,732	14,720	16,028	61,333
	Deviation from ideal	-480	399	-613	695	1,308
	% Deviation	-3.13%	2.60%	-4.00%	4.53%	8.53%
2020 Total Pop	% Hisp	80%	21%	21%	18%	34%
	% NH White	12%	65%	64%	64%	52%
	% NH Black	1%	2%	2%	2%	2%
	% Asian-American	5%	7%	9%	12%	8%
Citizen Voting Age Pop	Total	4,296	10,843	10,421	10,843	36,403
	% Hisp	42%	7%	10%	9%	12%
	% NH White	41%	84%	76%	80%	75%
	% NH Black	3%	3%	3%	1%	3%
	% Asian/Pac.Isl.	13%	5%	9%	8%	8%

Calculating Population Deviation

Ideal district size = 15,333

- Calculated by dividing the total population by the number of districts
- $61,333/4 = 15,333.25$

Total deviation = 1,308

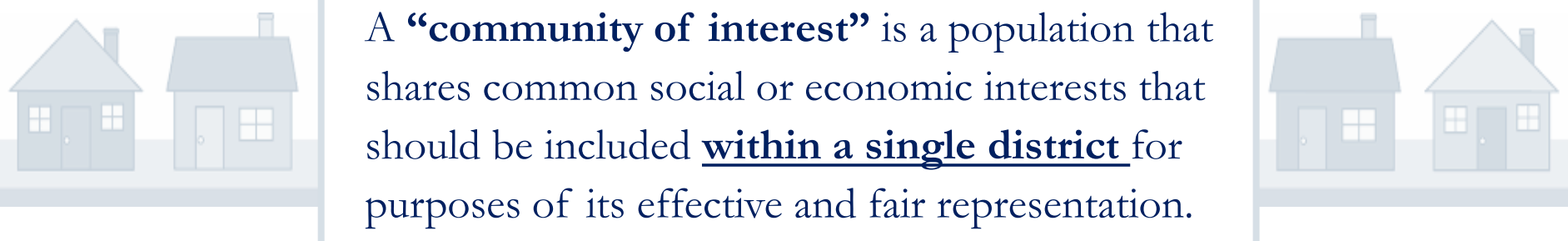
- Calculated by subtracting the smallest district's population from the largest district's population
- $D4 (16,028) - D3 (14,720) = 1,308$

Total deviation % = 8.53%

- Calculated by subtracting the smallest district's deviation from the largest district's deviation
- $D4(4.53) - D3(-4.00) = 8.53\%$

Defining “Communities of Interest”

Under California Elections Code, “community of interest” has a specific definition in the context of redistricting:

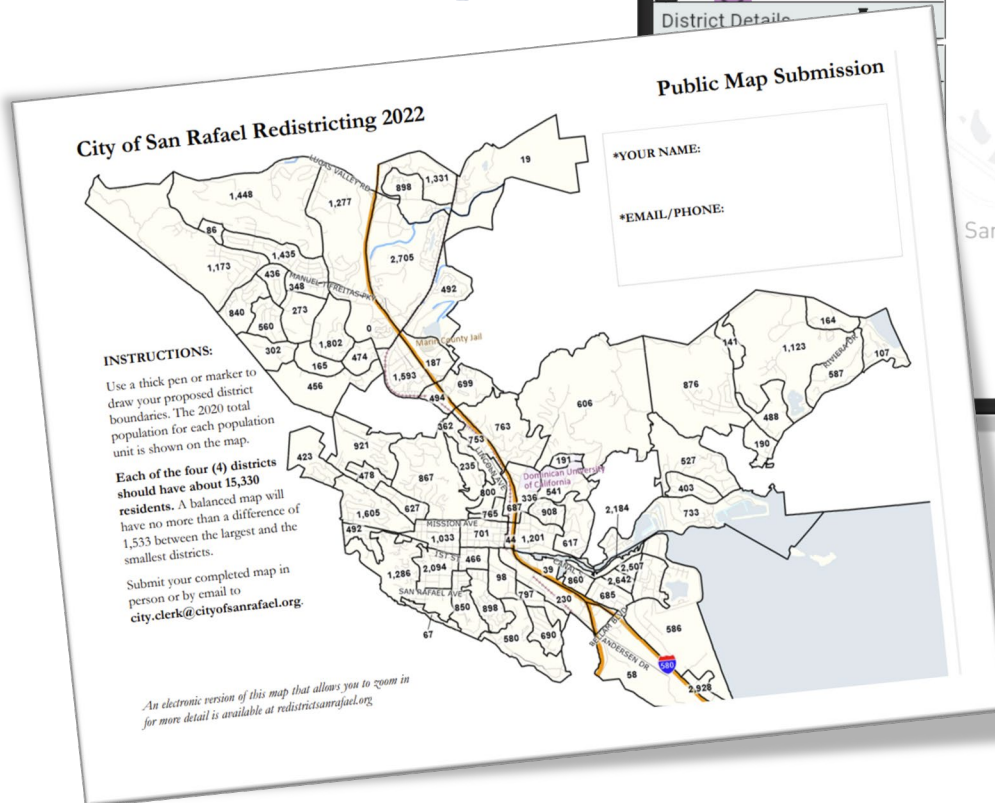
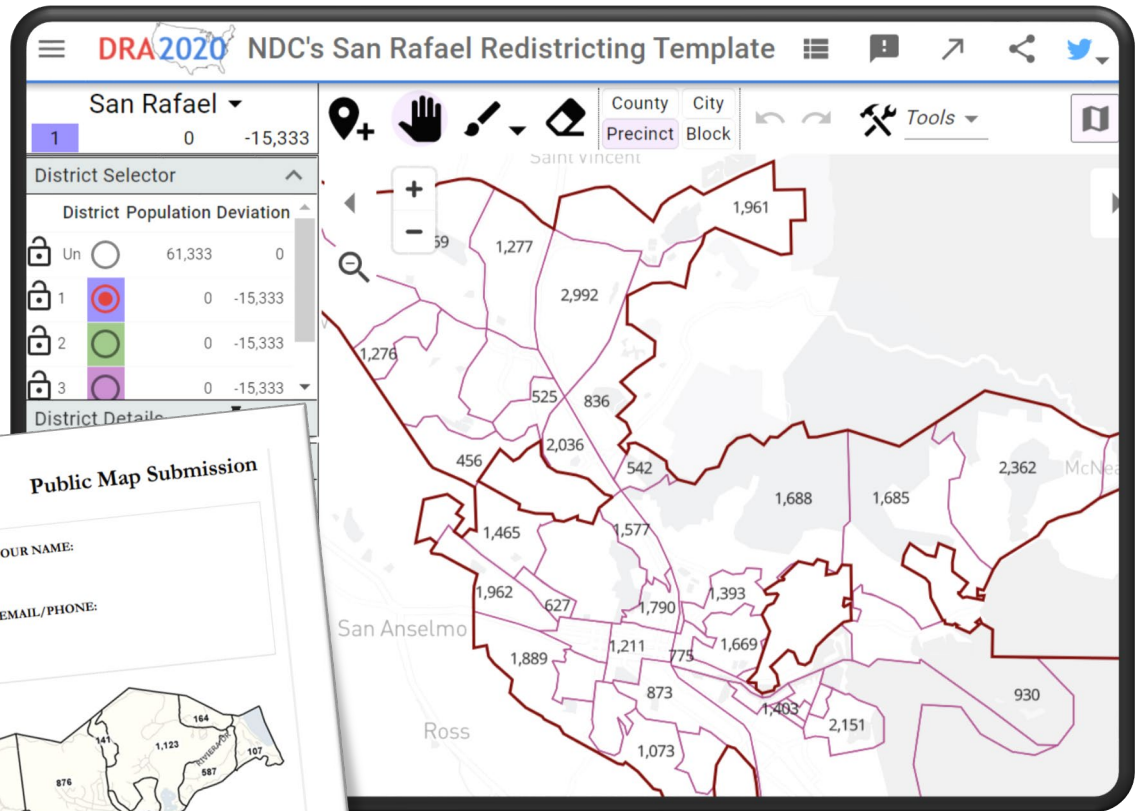


A “community of interest” is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation.

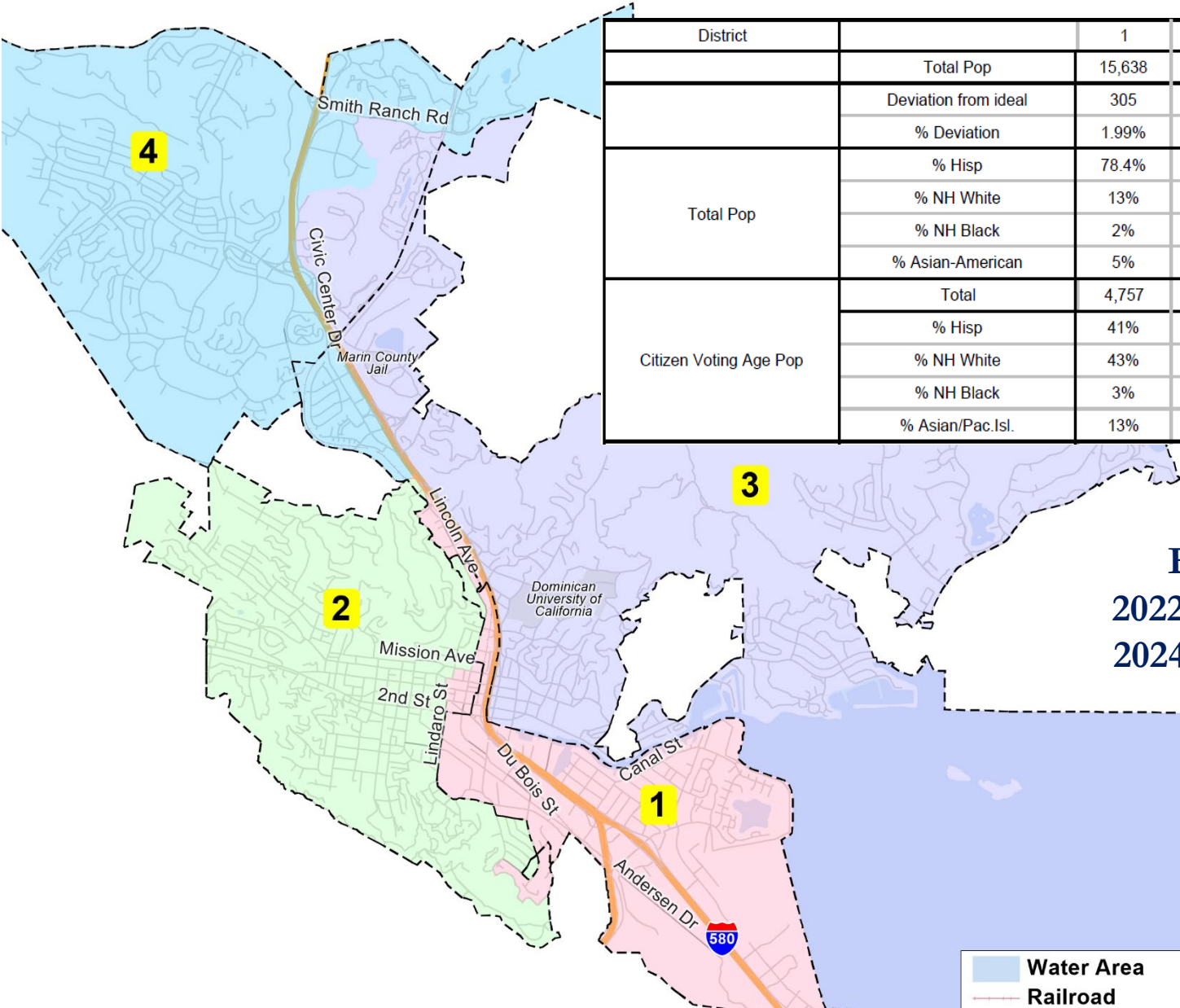
Definitions of “communities of interest” do **not** include relationships with political parties, incumbents, or political candidates.

Public Mapping Tools

San Rafael's mapping tools empower residents to draw their communities of interest, home district, or an entire citywide district plan



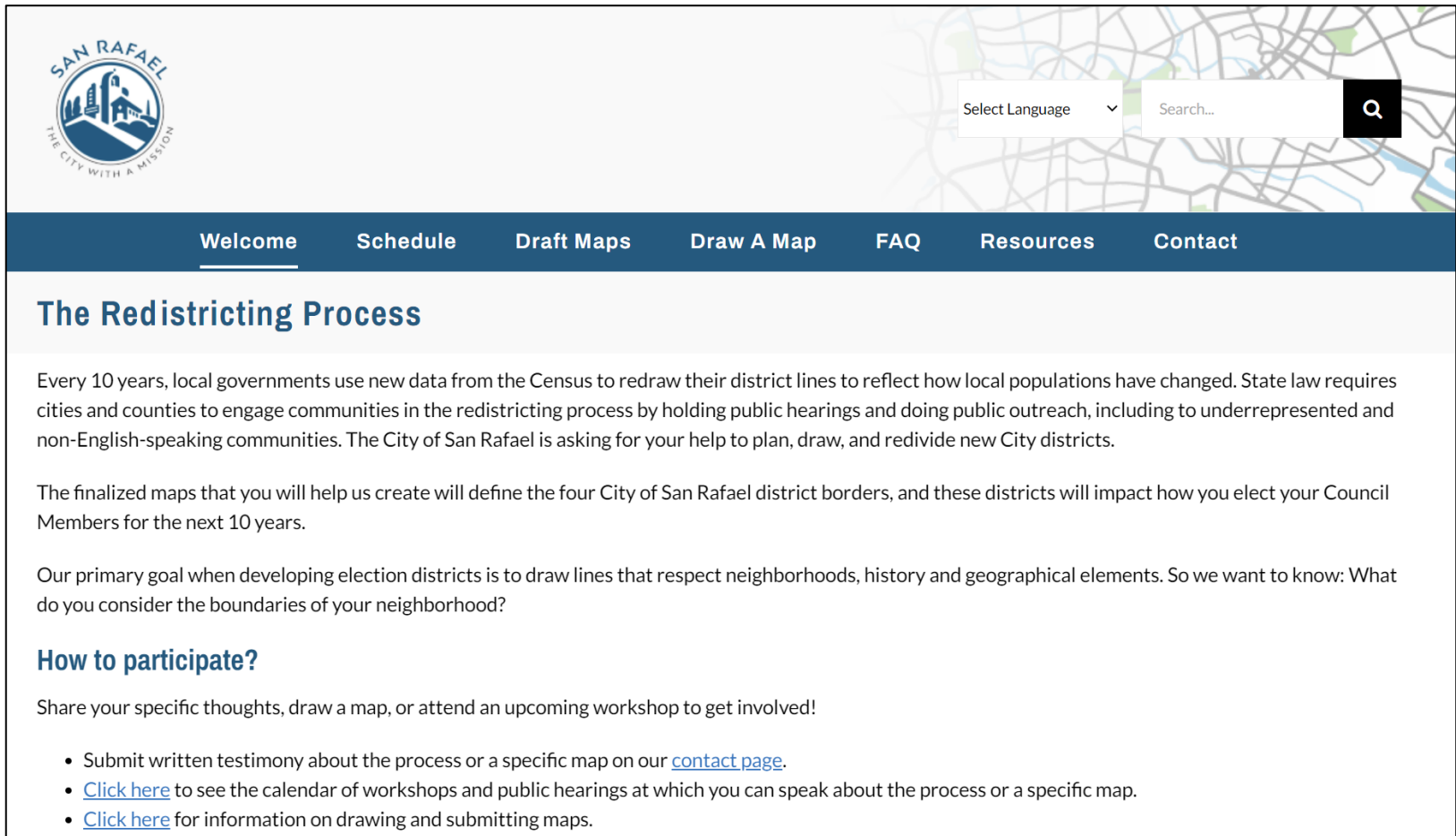
NDC Minimal Change Map



District	1	2	3	4	Total
Total Pop	15,638	15,700	14,849	15,146	61,333
Deviation from ideal	305	367	-484	-187	851
% Deviation	1.99%	2.39%	-3.16%	-1.22%	5.55%
Total Pop	78.4%	21%	19%	18%	34%
% Hisp	13%	65%	66%	64%	52%
% NH White	2%	2%	3%	2%	2%
% NH Black	5%	7%	9%	12%	8%
% Asian-American	4,757	10,771	10,539	10,336	36,403
Citizen Voting Age Pop	41%	8%	7%	10%	12%
Total	43%	83%	80%	77%	75%
% Hisp	3%	3%	3%	1%	3%
% NH White	13%	5%	8%	9%	8%
% Asian/Pac.Isl.					

Election Cycle:
2022: Districts 2 and 3
2024: Districts 1 and 4

Share Your Thoughts



SAN RAFAEL
THE CITY WITH A MISSION

Select Language

[Welcome](#) [Schedule](#) [Draft Maps](#) [Draw A Map](#) [FAQ](#) [Resources](#) [Contact](#)

The Redistricting Process

Every 10 years, local governments use new data from the Census to redraw their district lines to reflect how local populations have changed. State law requires cities and counties to engage communities in the redistricting process by holding public hearings and doing public outreach, including to underrepresented and non-English-speaking communities. The City of San Rafael is asking for your help to plan, draw, and redivide new City districts.

The finalized maps that you will help us create will define the four City of San Rafael district borders, and these districts will impact how you elect your Council Members for the next 10 years.

Our primary goal when developing election districts is to draw lines that respect neighborhoods, history and geographical elements. So we want to know: What do you consider the boundaries of your neighborhood?

How to participate?

Share your specific thoughts, draw a map, or attend an upcoming workshop to get involved!

- Submit written testimony about the process or a specific map on our [contact page](#).
- [Click here](#) to see the calendar of workshops and public hearings at which you can speak about the process or a specific map.
- [Click here](#) for information on drawing and submitting maps.

Website: redistrictsanrafael.org



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager's Office

**Prepared by: Cory Bytof,
Sustainability Program Manager**

City Manager Approval: _____

TOPIC: AMENDMENT TO THE SAN RAFAEL MUNICIPAL CODE REGARDING RECYCLING OF ORGANIC WASTE TO COMPLY WITH SENATE BILL 1383

SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING THE SAN RAFAEL MUNICIPAL CODE TO REPEAL CHAPTER 9.19 - REFUSE AND RECYCLED MATERIALS COLLECTION AND DISPOSAL AND REPLACE IT WITH NEW CHAPTER 9.19 - SOLID WASTE COLLECTION AND DISPOSAL AND EDIBLE FOOD RECOVERY

RECOMMENDATION

Pass to print an ordinance amending the San Rafael Municipal Code to repeal Chapter 9.19 - Refuse and Recycled Materials Collection and Disposal and replace it with new Chapter 9.19 - Solid Waste Collection and Disposal and Edible Food Recovery.

EXECUTIVE SUMMARY

This report explains the rationale for passing a new ordinance to replace our current Refuse and Recycled materials Municode chapter with a new chapter that includes provisions meant to comply with Senate Bill 1383, the California Short-Lived Climate Pollutant law. It reviews the history and intention of the law and other State laws regarding refuse collection and regulations, City responsibilities under the new law, our collaboration with Marin Sanitary Service and other agencies, and our status with regard to compliance currently. The Analysis section demonstrates how we are complying with the adoption of this ordinance and the features of the ordinance and new Municode chapter. Council will have the option to introduce the ordinance tonight for a first reading and public hearing, for eventual adoption at the next City Council meeting, or to ask staff for more information and to bring it back at the next City Council meeting for first reading. The ordinance needs to be adopted before April 1, 2022 to be compliant and avoid potential penalties.

BACKGROUND

Waste Hauler and Franchisors' Group

Article XI of the California Constitution and the California Public Resources Code allows cities to regulate refuse and recycling services and to collect a franchise fee from any provider of such

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services. Marin Sanitary Service (MSS) is our sole provider of refuse hauling and recycling services and performs these services in many surrounding communities as well. These services are pursuant to a Franchise Agreement between the City and MSS, which outlines the services that must be provided by MSS as well as a methodology to be followed to set customer rates each year.

All of the jurisdictions in Marin that have similar agreements with MSS work together to share information and reduce costs: the City of San Rafael, City of Larkspur, the Towns of Ross, San Anselmo, and Fairfax, the Las Gallinas Valley Sanitary District, and the County of Marin. This Marin franchisors' group ("franchisors") meets throughout the year to oversee MSS's operations and works together to conduct annual rate review analyses, align programs, and implement new State laws and regulations.

State Law

In 2014, recognizing the negative impacts of organic materials decomposing in landfills on climate change, the State of California enacted Assembly Bill (AB) 1826 mandating that businesses with certain thresholds of refuse disposal compost their organic materials. Beginning in 2022 [Senate Bill \(SB\) 1383](#), enacted in 2017, will require that all residents and businesses divert their organic waste and recover edible food. SB 1383 will also place new requirements on local governments to implement, monitor and enforce participation in organic waste recycling programs, and the California Department of Resources Recycling and Recovery (CalRecycle) will be authorized to levy fines upon local governments that don't comply. The Marin Sanitary Service franchisors' group have been working with R3 Consulting Group, Inc. to facilitate compliance with SB 1383 and assess opportunities to create economies of scale working together to implement the law.

City Responsibilities

Under SB 1383, every local government in California must conduct the following activities:

- Collection: must provide organic waste collection to all residents and businesses
- Food Recovery: must establish a program for businesses to donate edible food to food recovery organizations
- Education and Outreach: must provide information to residents, businesses, and edible food donors in multiple languages
- Procurement: must procure a pre-determined amount of recycled organic waste products from approved vendors annually
- Enforcement: must conduct inspections and enforce compliance, including issuing fines
- Recordkeeping and Reporting: must maintain accurate and timely records and report to CalRecycle annually

In addition, counties must coordinate with cities, towns and special districts to conduct capacity planning for organics collection and recycling as well as edible food recovery. Although the City is responsible for the implementation of the law, some of the provisions may be assigned to a waste hauler, such as portions of the outreach and education requirement. In addition, Marin Sanitary Service already provides the fully compliant collection services for the City of San Rafael.

Marin Sanitary Service Programs and Services

MSS provides residential, commercial, and multi-family refuse services, including garbage, recycling, and organics (food waste and green waste diversion) collection and processing. MSS also provides garbage and recycling pick-up for City facilities, parks, and all sidewalk receptacles downtown and throughout San Rafael. MSS is a key partner in the City's environmental goals as well as the City and County's zero waste goals. MSS conducts the majority of the outreach for the City for the State's current Mandatory Commercial Recycling and Mandatory Composting laws (AB 341, enacted in 2011, and AB 1826, enacted in 2014), and will provide the majority of this

outreach for the City under SB 1383 as well. This includes information on requirements for businesses to recycle and divert organic waste and require annual monitoring, and notifications to non-compliant businesses. MSS has a robust community outreach and education program and conducts numerous programs and community offerings. All their services including the "[Where Does it Go, Joe](#)" recycling lookup feature can be found on their website at MarinSanitaryService.com.

What Has Been Done to Date

MSS and City staff have been following SB 1383 closely and have been working with the MSS franchisors to align implementation and compliance. In December, the City Council approved a [fourth Amendment](#) to the Amendment and Restatement of Collection Agreement of the City of San Rafael with Marin Sanitary Service which updated their services and offerings to align with the requirements of SB 1383. This included full rollout of their organics services to all customer types as well as container label standards, outreach and education requirements, evaluation and inspection provisions, route reviews, and reporting requirements.

The City has a Fellow and an intern working on outreach who have developed and compiled a suite of outreach materials including new web pages for SB 1383 at CityofSanRafael.org/organics. They have also conducted numerous other types of outreach and education activities and have been working with MSS to align efforts for consistency, accuracy, and efficiency. City staff and interns have met with CalRecycle staff and R3 to ensure that our compliance and implementation planning is adequate and timely. In addition, the City has applied for a CalRecycle Local Assistance Grant to assist in what may be the most challenging aspect of the law: the procurement requirement. Currently the City procures less than 1% of the annual requirement under the law. Complying with this requirement will pose significant challenges both in terms of staff time and resources. Fortunately, CalRecycle has relaxed timelines for this requirement, acknowledging the challenges cities will face in meeting them. Therefore, the City intends to utilize the Local Assistance grant to conduct a procurement and use analysis for the material purchasing target set by CalRecycle.

ANALYSIS

Ordinance and Municode Revision

Upon reviewing the recommended Municode language from CalRecycle and the requirements of the law with R3, MSS, and the other franchisors, City staff decided to recommend to repeal and replace the current refuse provisions with a comprehensive new update. This ensures consistency in definitions and references and makes it easier for members of the public to understand. The proposed ordinance would repeal Chapter 9.19 - *Refuse and Recycled Materials Collection and Disposal* and replace it with new Chapter 9.19 - *Solid Waste Collection and Disposal and Edible Food Recovery*.

Some of the major features of the new ordinance include:

- Requirements to subscribe to organics services from our authorized waste hauler (MSS) and properly sort materials consistent with the waste hauler's three-container program
- A waiver process for businesses that meet minimal ("de minimus") thresholds of organic waste generation
- Requirements for businesses to provide containers for employees, contractors, tenants, and customers for organic waste and recyclable materials
- Requirements that the waste hauler and self-haulers must take materials to facilities allowed by CalRecycle that recover those materials
- Prohibitions on self-haulers to pay another hauling entity to haul their waste
- Requirements to keep records by all haulers, including self-haulers

- Requirements for large, commercial edible food generators to divert edible food and have formal agreements with edible food organizations, and to keep records
- City's right to inspect and enforce as well as issue penalties for enforcement consistent with the City's penalties for other ordinance violations

San Rafael's ordinance is very similar to those adopted by the other MSS franchisors. This will allow for consistency in implementation across the MSS service area and for the City to collaborate with the other agencies with regard to enforcement and reporting. The City is working with R3 and the other franchisors to determine the needs and opportunities for shared enforcement, including an analysis of costs and cost-share, which may be funded by a compliance and regulatory fee on the refuse rates. Zero Waste Marin is working with a third party vendor to align reporting duties and institute a tool all the jurisdictions and MSS can use to streamline and simplify the reporting. County Environmental Health Services is working with us to determine their role in inspection and enforcement as well.

SB 1383 regulations require submission of an initial compliance report by April 2022 and has additional compliance and reporting deadlines in the coming year for items such as food recovery and capacity planning for organic materials processing. The City is working with the other Marin franchisors and Zero Waste Marin to determine roles and responsibilities for some of these requirements. In addition, actual enforcement of provisions in our ordinance is not required until January 2024, allowing waste generators to transition to full compliance over two years' time.

Finally, MSS is conducting other assessments and plans to prepare for additional organic materials from SB 1383 as well as dry biomass that will be generated with the Measure C fire fuel removal efforts. This dry, woody material is already starting to flow through MSS, and the onsite processing of this material will not only reduce the transportation and emissions impact from trucking this material to Stockton and Woodland but will also create a local green energy source used to power MSS operations with any excess energy produced being sold back to the grid through an agreement with MCE Clean Energy. This project is under review with the City's planning department as a modification to the existing use permit.

Staff has determined that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the enhanced solid waste regulations, as provided for in this Ordinance will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency (the City) for the protection of the environment.

COMMUNITY OUTREACH

This ordinance and SB 1383 implementation have been discussed at numerous public meetings, including the Climate Change Action Plan quarterly community forums and the San Rafael Chamber of Commerce's Green Business Committee. Notice of the public hearing was published twice in the *Marin Independent Journal* (Attachment C) and emailed to all names on file with the City Clerk and City Manager's Office. Information was available at the City Clerk's office during the 10 days prior to the public hearing. The proposed ordinance and Municode revision were also provided directly to the San Rafael Chamber of Commerce, the Business Improvement District, Marin Builder's Association, and other interested parties.

FISCAL IMPACT

There is no direct fiscal impact to the City at this time. However, subsequent implementation will require an as-yet-to-be-determined annual cost for staff time and procurement. Additional costs

may be borne by certain businesses that currently do not subscribe to organics services, which are provided at approximately 60% reduction of refuse service for the commercial composting program.

OPTIONS

1. Pass to print an ordinance amending the San Rafael Municipal Code to repeal Chapter 9.19 - Refuse and Recycled Materials Collection and Disposal and replace it with new Chapter 9.19 - Solid Waste Collection and Disposal and Edible Food Recovery.
2. Modify or do not pass to the ordinance to print, and direct staff to come back with more information. If not introduced now, this ordinance will need to be introduced at the next City Council meeting on March 7, 2022 to meet the State deadline of April 1, 2022.

RECOMMENDED ACTION

Pass to print an ordinance amending the San Rafael Municipal Code to repeal Chapter 9.19 - Refuse and Recycled Materials Collection and Disposal and replace it with new Chapter 9.19 - Solid Waste Collection and Disposal and Edible Food Recovery.

ATTACHMENTS

- | | |
|---------------|---------------------------------------|
| Attachment A: | Proposed Ordinance |
| Attachment B: | SB 1383 Jurisdiction Responsibilities |
| Attachment C: | Affidavit of Publication |

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
AMENDING THE SAN RAFAEL MUNICIPAL CODE TO REPEAL AND REPLACE
CHAPTER 9.19 CONCERNING SOLID WASTE COLLECTION AND DISPOSAL AND
EDIBLE FOOD RECOVERY, IN ACCORDANCE WITH SENATE BILL 1383**

WHEREAS, Article XI of the California Constitution and the California Public Resources Code allows cities to regulate refuse and recycling services and to collect a franchise fee from any provider of such services. Marin Sanitary Service (MSS) is our sole provider of refuse hauling and recycling services and performs these services in many surrounding communities as well; and

WHEREAS, in 2014, recognizing the negative impacts of organic materials decomposing in landfills on climate change, the State of California enacted Assembly Bill (AB) 1826 mandating that businesses with certain thresholds of refuse disposal compost their organic materials. Beginning in 2022 [Senate Bill \(SB\) 1383](#), enacted in 2017, will require that all residents and businesses divert their organic waste and recover edible food. SB 1383 will also place new requirements on local governments to implement, monitor and enforce participation in organic waste diversion programs, and the California Department of Resources Recycling and Recovery (CalRecycle) will be authorized to levy fines upon local governments that don't comply; and

WHEREAS, Chapter 9.19 of the San Rafael Municipal Code entitled "Refuse and Recycled Materials Collection and Disposal" adopted in 1993, must be updated and amended to comply with SB 1383;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AS FOLLOWS:

DIVISION 1. AMENDMENT OF SAN RAFAEL MUNICIPAL CODE.

Chapter 9.19 of the San Rafael Municipal Code is hereby repealed in its entirety, and replaced with a new Chapter 9.19 entitled "Solid Waste Collection and Disposal and Edible Food Recovery", to read in its entirety as follows:

**Chapter 9.19 SOLID WASTE COLLECTION AND DISPOSAL AND EDIBLE FOOD
RECOVERY**

Article I. Purpose and Definitions

9.19.010 Purpose.

The purpose of this chapter is to prevent actual or potential public health hazards and nuisance within the city of San Rafael, Marin County, state of California, by regulating the accumulation, collection and disposal of solid waste, and to provide for the licensing and responsibilities of persons engaged therein. It is declared to be in the public interest that the accumulation, storage and disposal of all such materials be handled in such a manner as to

prohibit the harboring and breeding of rodents and insects, to reduce pollution of the air caused by burning, fermentation or putrefaction of such materials, to prevent the spread of disease, to reduce the hazards of fire, and to prevent unsightliness resulting in the depreciation of property values and the comfortable enjoyment of life.

9.19.020 Intent.

It is further the intention of the city by this chapter to provide for the source reduction, recycling and resource recovery of solid waste generated within the city to the maximum extent feasible and as required by state law. Therefore, this chapter establishes and includes an approved solid waste collection program for all persons in the city for the purpose of providing for the orderly and regular collection of solid waste.

9.19.030 Definitions.

A. As used in this chapter:

1. "Act" means the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended by, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of the California Department of Resources Recycling and Recovery ("CalRecycle.").
2. "Authorized collector" means such persons, firms or corporations collecting and delivering for disposal, recycling or processing solid waste (other than solid waste generated by a permitted building project) originating in the city and doing so under a contract or franchise agreement with the city.
3. "Bulky Waste" means large items of solid waste such as appliances (white goods), e-waste (except for universal waste), furniture, tires, carpets, mattresses and similar large items, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing, or disposal methods. It does not include abandoned vehicles or household hazardous waste.
4. "CalRecycle approved solid waste facility, operation, activity, or property" means a facility, operation or activity the use of which is deemed to constitute a reduction in landfill disposal in accordance with 14 CCR, Division 7, Chapter 12 for the purposes of this chapter.
5. "CCR" means the California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
6. "City manager" means the city manager of the city of San Rafael, or their designee, which may include city employees.
7. "Collection" means to take physical possession of solid waste at, and remove from, the place of generation for transport to a solid waste facility or other recovery activity.
8. "Commercial business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling, or as otherwise defined in 14 (CCR)

Section 18982(a)(6). A multi-family dwelling that consists of (5) or more dwelling units is "Commercial", for the purposes of this Chapter.

9. "Commercial Edible Food Generator" means a Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Section 18982(a)(73) and (a)(74). Food recovery organizations and food recovery services are not commercial edible food generators.
10. "Community composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
11. "Composting" means the process of controlled biological decomposition of organic waste.
12. "Construction and demolition debris" or "C&D" means used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure.
13. "Container" or "collection container" means, for the purpose of this Chapter, any bin, box or cart used for the purpose of holding solid waste for collection.
14. "Debris box" means any ten (10) to forty (40) cubic yard container, or any compactor provided by a solid waste generator, placed in the public right-of-way, on city property, private property, or elsewhere in the service area, which is procured by a solid waste generator for their use in the collection of their solid waste. Debris boxes are serviced by means of lifting the entire container, including all contents, onto a designated collection vehicle.
15. "Designee" means an entity that the city contracts with or otherwise arranges to carry out any of the city's responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.
16. "Disposal" means the final disposition of Solid Waste at a solid waste facility permitted for disposal.
17. "Diversion" means activities reducing or eliminating the amount of Solid Waste from Solid Waste Disposal, and which return these materials to use in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary for commercial use, or for other purposes of reuse.
18. "Dwelling unit" means one (1) or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one (1) family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities.
19. "Edible food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

20. "Enforcement action" means an action of the city to address non-compliance with this ordinance including, but not limited to, issuing administrative notices, citations, fines, penalties, or using other remedies.
21. "Enforcement agency" means an entity with the authority to enforce part or all of this chapter as specified herein. Employees and agents of an enforcement agency may carry out inspections and enforcement activities pursuant to this chapter. Nothing in this chapter authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity and the city. The city is an enforcement agency for all Sections of this chapter. The city may choose to additionally delegate enforcement responsibility for certain sections, to other public entities, including the Marin Hazardous and Solid Waste Joint Powers Authority (Zero Waste Marin) and the County of Marin.
22. "Exempt waste" means biohazardous or biomedical waste, Hazardous Waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in the California Integrated Waste Management Act of 1989 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission. , all as further defined in subsection 38 of this section.
23. "Food recovery organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - a. A food bank as defined in Section 113783 of the Health and Safety Code;
 - b. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - c. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.
24. "Food recovery service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
25. "Food waste" means food scraps and trimmings and other putrescible waste that result from food production, preparation, cooking, storage, consumption or handling. Food Waste includes but is not limited to meat, fish and dairy waste, fruit and vegetable waste and grain waste. Food Waste does not include Exempt Waste.
26. "Garbage" means all non-recyclable packaging and other waste attributed to normal activities of a premise. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include recyclable materials, organic materials, debris from construction and demolition, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

27. "Garbage container" has the same meaning as "Gray Container" in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Garbage.
28. "Generators," for the purpose of this Chapter, means a person or entity, including commercial generators and residential generators, that is responsible for the initial creation of organic materials, or as otherwise defined as "organic waste generator" in 14 CCR Section 18982(a)(48).
29. "Health officer" means the health officer of the county, acting as health officer for the city.
30. "Inspection" means a site visit where the city, its designee or Enforcement agency, reviews records, containers, and an entity's collection, handling, recycling, or disposal of solid waste or edible food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
31. "Organics container" has the same meaning as "Green Container" in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of source separated organic materials designated for organic materials processing, including food waste and landscape and pruning waste accepted in the city's organic waste collection program, and other organic materials as determined by the city and authorized collector as acceptable for the organics container. The city and authorized collector shall have the right to promulgate changes to organic material types acceptable for the organics container.
32. "Organic material" or "organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).
33. "Organic material processing facility" means any facility selected by the authorized collector that is approved by the city, or specifically designated by the city, operated and legally permitted for the purpose of receiving and processing organic materials.
34. "Person" means any person or persons, firm, association, corporation or other entity acting as principal, agent or officer, servant or employee, for themselves or for any other person, firm or corporation. Person includes employees of the city of San Rafael.
35. "Premises" includes a tract or parcel of land with or without habitable buildings or appurtenant structures. (CCR, Section 17225.50) For purposes of this chapter the word premises includes Residential and Commercial uses of the land, whether owned, leased, rented or sub-let, including every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the city.
36. "Prohibited container contaminants" means (1) discarded materials placed in the designated Recyclables container that are not identified as acceptable source separated recyclables for the city's designated recyclables collection container; (2)

- discarded materials placed in the designated organic materials collection container that are not identified as acceptable source separated organic materials for the city's designated organic materials collection container; and (3) discarded materials placed in the garbage container that are acceptable source separated recyclables and/or source separated organic materials to be placed in city's designated organic materials collection container and/or designated recyclables collection container, and (4) Exempt Waste placed in any container.
37. "Recyclable (source separated) materials" or "recyclables" means any material designated to be segregated from the waste stream for purposes of recycling. This designation shall be made by the city and the authorized collector based on good public practice, ability to receive an acceptable economic return, and feasibility of separating the material from the waste stream at the point of collection. Recyclable materials are currently limited to paper, glass, cardboard, plastics, ferrous metal, and aluminum.
 38. "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become garbage and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the marketplace. Recycling does not include transformation as defined in Public Resources Code § 40201. (CCR, Title 14, Section 17225.54).
 39. "Recycling container" has the same meaning as "Blue Container" in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of source separated recyclable materials. The city and authorized collector shall have the right to promulgate changes to recyclable material types acceptable for the recycling container.
 40. "Residential" means, for the purposes of this chapter, any premises consisting of between one (1) and four (4) dwelling units, and onsite domestic uses accessory to these dwelling units. A multi-family dwelling that consists of fewer than (5) dwelling units is "Residential", for the purposes of this Chapter.
 41. "Self-hauler" means a person who hauls solid waste, organic waste or recovered material they have generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). "Back-haul" means generating and transporting organic materials to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 189881(a)(66)(A). Self-Hauler does not include any hauling arrangement by which the owner or occupant of the Premises pays any compensation to a third party for such hauling, including any transaction or arrangement involving discounted fees for services.
 42. "Solid waste" means all putrescible and non-putrescible solid and semisolid wastes, including garbage, recyclable materials, organic materials, trash, refuse, paper, rubbish, ashes, industrial wastes demolition and construction wastes, bulky waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes. Solid waste includes materials defined as such per the Public Resources Code Section 49503 and as amended. Solid waste does not include any of the following wastes: (1) Hazardous waste, as defined in the Public Resources Code Section 40141, (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety

Code) (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be solid waste shall be regulated pursuant to Division 30 of the Public Resources Code. Recyclable materials and organic materials are a part of solid waste and (4) abandoned vehicles and parts thereof.

43. "Solid waste collection service" means collection of solid waste originating in the city, by persons, firms or corporations, and doing so under a contract or franchise agreement with the city. Solid waste collection service includes collection of source separated garbage, recyclable material and organic materials.
44. "Solid waste facility" or "facility" means a solid waste transfer or processing station including Material Recovery Facilities, a recycling facility, a composting facility, a gasification facility, a transformation facility, an Engineered Municipal Solid Waste conversion facility, and/or a disposal facility in compliance with the definitions, provisions and requirements set forth in the Act. Solid waste facility additionally includes a solid waste operation that may be carried out pursuant to an enforcement agency notification, as provided in regulations adopted by CalRecycle, or otherwise set forth in the Act.
45. "Source separate" means the process of removing recyclable materials and organic materials from Solid Waste at the place of generation, prior to Collection, and placing such materials into separate containers designated for recyclable materials and organic materials, or as otherwise defined in 14 CCR Section 17402.5(b)(4).
46. "Source reduction" means any action which causes a net reduction in the generation of solid waste. Source reduction includes, but is not limited to, reducing the use of nonrecyclable materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing garbage rate structures with incentives to reduce the amount of wastes that generators produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials. Source reduction does not include steps taken after the material becomes solid waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation.
47. "Tier One commercial edible food generator" means a Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):
 - a. Supermarket with gross annual sales of \$2,000,000 or more
 - b. Grocery store with a total facility size equal to or greater than 10,000 square feet.
 - c. Food service provider, which means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.
 - d. Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

- e. Food Distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.
48. "Tier Two commercial edible food generator" means a Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):
- a. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
 - b. Hotel with an on-site food facility and 200 or more rooms.
 - c. Health facility with an on-site food facility and 100 or more beds.
 - d. Large Venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.
 - e. Large Event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event..
 - f. A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
 - g. A local education agency facility with an on-site food facility. "Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
49. "User disposal containers" are containers inside a business for the collection of source separated organic materials, source separated recyclables and garbage for employees, contractors, tenants, customers and other users of the business.

Article II. Storage and Disposal

9.19.040 General.

It is the intent of the city that every person residing or conducting business in this city shall subscribe to and participate in solid waste collection service approved by the city and provided by an authorized collector. Nothing in this chapter shall prevent generators from self-hauling to a CalRecycle approved solid waste facility, operation, activity, or property in addition to their solid waste collection service, consistent with the requirements set forth in this chapter; or from

utilizing a temporary debris box service, consistent with section 9.19.320. The City Council may from time-to-time adopt by resolution policies and procedures to implement this Ordinance.

Any references to the California Code of Regulations (CCR) language shall automatically conform to the current CCR in case of amendment by the State.

9.19.050 Prohibited accumulation and disposal.

Except as authorized in this chapter, it is unlawful for any person to:

- A. Throw, bury, deposit, or cause to be thrown or deposited, any solid waste, or allow any collection of same to remain in or upon any private property, public right-of-way, alley, sidewalk, park, watercourse, waterway, levees or banks of watercourses or waterways, or upon any premises whatsoever other than a CalRecycle approved solid waste facility, operation, activity, or property. Any material not disposed of as aforesaid shall be placed in collection containers for collection.
- B. Place or cause to be placed in any public receptacle owned or rented by the city and located upon public streets or in public places, any solid waste originating within or from any private property of more than one-half cubic foot.
- C. Deposit any garbage in a recycling container or organics container.
- D. Dump, place or bury solid waste in any lot, land or street or alley within the city, without first having obtained a solid waste facility permit or exemption from that permit issued by the local enforcement agency (LEA) of Marin County and concurred with by CalRecycle. Under no circumstances whatsoever shall recyclable materials be dumped, placed or buried, as above. This chapter shall not preclude or prohibit the city from siting and permitting a recycling facility consistent with the provisions of the general plan provided that necessary variances are obtained from the California Department of Toxic Substances Control.
- E. Allow any solid waste to accumulate or remain in or upon the building, lot or premises, in a manner that creates a public nuisance. The owner of any premises, business establishment, industry, or other property, vacant or occupied, shall be deemed the responsible party and therefore ultimately responsible for the safe and sanitary storage of all solid waste accumulated on the property. Collection containers shall be filled in a manner that prevents the contents from overflowing and allows the cover to fit securely. Garbage containers, recycling containers, and organics containers shall be of an adequate size and of sufficient numbers to contain without overflowing, all the solid waste that the premise generates within the designated removal period. Overflowing solid waste is a public health violation. It shall be the responsibility of the owner of any building, lot or premises to notify the authorized collector promptly when necessary to increase solid waste collection service, to prevent solid waste from overflowing existing containers. If the city or authorized health officer determines that inadequate service causes a public nuisance or health problem, they may order the generator to increase service. The authorized collector shall increase collection service immediately upon notice.
- F. Deliberately burn solid waste within the city.

9.19.060 Transportation of solid waste.

No person shall move, convey or transport or cause or permit to be moved, conveyed or transported any solid waste upon or along any public street or alley or other public place in the

city; provided, however, the provisions of this section shall not apply to any person conveying solid waste collected outside the city, nor to any person employed by the city who shall be assigned to the work of solid waste removal while acting within the scope of their employment or to any person or entity with whom the city has entered into or may hereafter enter into a contract for the collection, removal or disposal of solid waste or to any employee of such contractor during such time as such contract shall be in force. Nor shall this section be deemed to prohibit an individual from exercising their rights as described in section 9.19.200, which establishes requirements for self-hauling to a CalRecycle approved solid waste facility, operation, activity, or property, and section 9.19.210 which establishes the right to divert recyclable material or organic materials so long as the diversion otherwise complies with this chapter.

9.19.070 Obligation of solid waste collection service.

- A. Except as otherwise provided by this chapter, all occupied premises shall subscribe for solid waste collection service with the authorized collector as herein specified, and for such service a charge shall be collected as per a schedule of maximum rates as shall be set by resolution of the city council.
- B. Every property owner, commercial generator, residential generator, or other organic material generator within the city shall have the obligation for disposal of solid waste as provided in this chapter through the designated authorized collector and shall pay the authorized collector for the solid waste collection service at the rates provided therefor. Failure of receipt of a bill does not obviate responsibility for payment. In each instance, the property owner shall be primarily responsible for the payment of the charges provided for herein. The city or authorized collector may cause a lien to be placed upon the real property for failure to compensate the authorized collector for services rendered.
- C. Generators shall arrange for a size, quantity and collection frequency of containers to adequately store all solid waste generated in connection with the premise, and subject to collection in garbage containers, recycling containers and organics containers, between the times designated for collection service. The city shall have the right to review the number, size and location of such collection containers to evaluate the adequacy, capacity and collection frequency of containers for each type of collection service and to review the source separation and containment of materials. Generators shall adjust the size of containers, number of containers and/ or collection frequency for their collection services as requested by the city in order to meet the standards set forth in this chapter.
- D. Generators shall place source separated organic materials, including food waste, in the organics container; place source separated recyclable materials in the recycling container; and place garbage in the garbage container. The city and authorized collector shall have the right to promulgate changes to material types acceptable for each type of collection container. Generators shall not place prohibited container contaminants into the garbage container, organics container or recycling container.
- E. The authorized collector shall give written notice to the city manager of the address of any occupied premise within the city which is not subscribing to the collection and disposal service provided by the authorized collector.
- F. The owner of each occupied premise shall subscribe for solid waste disposal services within seven (7) days of the occupancy of the premises. If the owner fails to subscribe for service, the authorized collector shall give the owner written notification that such service is required.

- G. Generators shall provide or arrange for access during all inspections and investigations (with the exception of the interior of a private residential dwelling unit) and cooperate with the city manager or authorized collector during such inspections and investigations as described in section 9.19.390.

9.19.080 Commercial generator requirements.

- A. Commercial business owners including multi-family residential dwellings with five (5) or more dwelling units, shall provide or arrange for garbage container, organics container and recycling container collection service for employees, contractors, tenants and customers, and supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors as noted in subsection (B)(1) and (B)(2) below or, if self-hauling, in compliance with self-hauling requirements set forth in this chapter.
- B. Commercial businesses that are not multi-family residential dwellings shall provide containers for the collection of source separated organic materials and source separated recyclable materials in all areas where the commercial business provides disposal containers for employees, contractors, tenants, customers and other users of the premises ("User Disposal Containers"). Such user disposal containers do not need to be provided in restrooms. If a commercial business does not generate, or has a waiver pertaining to, any of the materials that would be collected in one type of user disposal container, then the business does not have to provide that particular type of container in all areas where user disposal containers are provided. Pursuant to 14 CCR Section 18984.9(b), the user disposal containers provided by the business shall have either:
 - 1. A body or lid that conforms with the following container colors, with either lids conforming to these color requirements or bodies conforming to these color requirements, or both lids and bodies conforming to these color requirements: gray or black containers for garbage, blue containers for source separated recyclable materials, and green containers for source separated organic materials. Notwithstanding the foregoing, a commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this section prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first; or
 - 2. Container labels that include language or graphic images, or both, indicating the primary materials accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. The container labeling requirements are required on new containers commencing January 1, 2022.
- C. Excluding multi-family residential dwellings, to the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the recycling container, organics container, and garbage container collection service.
- D. Excluding multi-family residential dwellings, periodically inspect recycling containers, organics containers, and garbage containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers.
- E. Including multi-family residential dwellings with five (5) or more dwelling units, annually provide information to employees, contractors, tenants, building residents, and

customers about organic waste recovery requirements and about proper sorting of organic materials and recyclable materials. A copy of such information shall be provided to the authorized collector or city manager, upon request.

- F. Including multi-family residential dwellings with five (5) or more dwelling units, provide information before or within fourteen (14) days of new occupation of the premises to new tenants and no less than fourteen (14) days before tenants move out of the premises, unless a tenant does not provide fourteen (14) or more days' notice to before moving out, that describes requirements to keep organic materials subject to collection in the organics container and recycling container separate from each other and from garbage, the location of containers, and the rules governing their use at the premises.
- G. Including multi-family residential dwellings with five (5) or more dwelling units, prominently post and maintain one or more signs where recyclable materials and/or organic waste are collected and/or stored that set forth what materials are required to be source separated, in addition to collection procedures for such materials.
- H. Commercial businesses that are commercial edible food generators, as defined in Section 9.19.030, shall comply with commercial edible food generator requirements, pursuant to Section 9.19.220.

9.19.090 Storage.

Generators shall store solid waste on their property or premises or shall require it to be stored or handled in such manner so as not to promote the propagation, harborage or attraction of animals or the creation of nuisance. (CCR, Section 17312). Each property owner shall keep the area where collection container(s) are located in a clean, safe and sanitary condition.

9.19.100 Solid waste collection areas.

Each commercial business shall:

- A. Designate space on the property to be used for storage of collection containers required by this chapter.
- B. Post a sign clearly identifying all garbage, recycling, and organics container collection areas and the materials accepted therein shall be posted adjacent to all points of access to the collection area(s).
- C. Commercial businesses which share collection services and containers located in a centralized collection area shall provide and maintain space within or adjacent to each waste enclosure, or adjacent to each approved garbage container(s) for placement of sufficient approved organics container(s) and recycling container(s).

9.19.110 Collection containers.

- A. It shall be the duty of every property owner, occupant and tenant of any premises within the city to store all solid waste in collection containers supplied by the authorized collector. These collection containers shall be constructed of metal or an approved plastic material and type which shall be watertight, nonabsorbent, animal resistant, durable, easily cleanable, equipped with handles, and having tight fitting covers such that the containers hold the solid waste without spillage and leakage, escape of odors or access of flies to the contents thereof.
- B. Each dwelling unit shall be required to have a minimum garbage service of one (1) thirty-two (32) gallon cart for garbage collection; one (1) thirty-two (32) gallon cart for

recyclable materials collection; and one (1) thirty-two (32) gallon of more than four (4) dwelling units, no two (2) or more dwelling units shall share communal waste collection services or approved collection containers except with the permission of the authorized collector.

9.19.120 Collection container maintenance.

Each collection container and its cover shall be kept clean, and the cover shall not be removed except to place solid waste therein or to empty the same. Only the authorized collector shall be authorized to maintain or repair the collection containers, and the authorized collector will maintain or replace collection containers as needed.

9.19.130 Collection container placement.

- A. No collection container, other than those owned or rented by the city or authorized collector, shall be placed or kept in or on any public street, sidewalk, footpath, or any public place whatsoever, or remain in public view from any public right-of-way except as herein provided, but shall be maintained on the premises, except as may be provided for removing and emptying by the authorized collector on the day(s) and in the location designated for collection. No person shall place a collection container so that either the sidewalk or street gutter is obstructed.
- B. Collection containers are permitted to be placed in public view and on a public street, sidewalk or footpath only during the forty-eight-hour period commencing at 12:01 a.m. on the day preceding the day of scheduled pick-up and terminating at 12:01 a.m. on the day following such pick-up.
- C. For curbside collection service, the approved location for collection shall be the street curb line adjacent to such premises and collection containers shall be placed in the location by the occupant of such premises for collection by the authorized collector.

9.19.140 Ownership of solid waste.

Solid waste subject to collection by the authorized collector shall become the property of the authorized collector subject to this chapter after such time as the authorized collector takes possession of the wastes (CCR, Section 17334).

9.19.150 Unauthorized removal and ownership of recyclable materials and organic materials.

- A. All recyclable materials and organic materials, upon being placed by the generator into a collection container and placed at an approved location for collection, shall become the property of the authorized collector owning the collection container, unless otherwise provided in a contract, license, or franchise agreement.
- B. No person, other than the generator, authorized collector or city, shall remove recyclable material or organic materials from a collection container placed at the location for collection.

9.19.160 Tampering.

No person shall tamper with, modify, remove from or deposit solid waste in any collection container which has not been provided for their use at a collection site, without permission from

the city or authorized collector. Nor shall any person tamper with any collection container or any recyclable materials on any premises, or collect, remove or dispose of the same, other than in the manner specified by this chapter.

9.19.170 Collection intervals.

All solid waste accumulated at any residential generator or commercial generator's property or premise shall be collected at regular intervals of at least once each week, except that from any place which has solid waste from which foul odors arise, or which is a menace to public health, such solid waste shall be collected at such intervals as necessary for proper sanitation. Nothing in this chapter shall be deemed to prohibit the removal and hauling by any person of materials ordered by the health officer, fire chief or code enforcement officer to be removed upon the ground that the same constitute a health menace, fire hazard or public nuisance.

9.19.180 Collection schedule.

Solid waste shall be collected as provided by this chapter at regular intervals on a schedule established by the authorized collector and approved by the city. The schedule may be changed as deemed necessary by the authorized collector and/or the city.

9.19.190 Waivers.

- A. Pursuant to 14 CCR Section 18984.11, the city may grant waivers to commercial businesses for physical space limitations and/or de minimis volumes. Commercial businesses seeking a waiver shall submit their request in a form specified by the city manager. After reviewing the waiver request, and after an on-site review, if applicable, the city manager may either approve or deny the following waiver requests:
 1. De Minimis Waivers: The city may waive a commercial business' obligation to comply with some or all the organic material collection service requirements if the commercial business meets the following requirements:
 - a. Submits an application specifying the type of waiver requested and provides documentation as described below.
 - b. Provides documentation that either:
 - i. The commercial business receives two or more cubic yards of weekly solid waste collection service and disposed organic materials subject to collection in the organics container or recycling container comprises less than 20 gallons per week of the business' total weekly solid waste volume; or
 - ii. The commercial business receives less than two cubic yards of weekly solid waste collection service and disposed organic materials subject to collection in the organics container or recycling container comprises less than 10 gallons per week of the business' total weekly solid waste volume.
 - iii. For the purposes of subsections (i) and (ii) above, weekly solid waste collection shall be the sum of weekly garbage container volume, recyclable container volume and organics container volume, measured in cubic yards.

- c. Notifies the city if circumstances change such that volume of commercial business' disposed organic materials exceeds threshold required for waiver, in which case the waiver will be rescinded.
 - d. Provides written verification of eligibility for de minimis waiver every five years if the city has approved de minimis waiver.
2. Physical Space Waivers: The city may waive a commercial business' obligations (including multi-family dwellings) to comply with some or all of the recyclable materials and/or organic materials collection service requirements if the city has evidence from its own staff, authorized collector, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the organic materials collection requirements. A commercial business or property owner may request a physical space waiver through the following process:
- a. Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.
 - b. Provide documentation that the premises lacks adequate space for the recycling containers and/ or organics containers including documentation from the authorized collector, licensed architect, or licensed engineer.
 - c. Provide written verification to the city that it is still eligible for physical space waiver every five years if the city has approved application for a physical space waiver.

9.19.200 Self-hauling.

- A. Self-Haulers shall source separate all recyclable materials and organic materials (materials that the city otherwise requires generators to source separate for collection in recycling containers or organics containers) generated on-site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2.
- B. Self-Haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated organic materials to a CalRecycle approved solid waste facility, operation, activity, or property that processes or recovers source separated organic materials.
- C. Self-Haulers that are commercial businesses (including multi-family residential dwellings) shall keep a record of the amount of organic material delivered to each CalRecycle approved solid waste facility, operation, activity, or property that processes or recovers organic materials; this record shall be subject to inspection by the city. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the waste.
 - 2. The amount of material in cubic yards or tons transported by the generator to each entity.
 - 3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the organic materials.

- D. Self-Haulers must keep records, including dates of self-haul activities, amounts of self-hauled materials, and names and location(s) of the CalRecycle approved solid waste facility, operation, activity, or property where the material was hauled, and make those records available for inspection upon request by the City or Cal Recycle for a period of five years of any self-haul activity.
- E. The City may restrict or prohibit self-hauling by a generator if the City determines, after providing notice and an opportunity for a hearing, that the generator's self-hauling activities violate the provisions of this section or any other applicable law or regulation.
- F. A residential organic waste generator that self-hauls organic materials is not required to meet the requirements of Section 9.19.200 (C), (D), and (E).

9.19.210 Right to divert recyclable material and organic materials.

- A. Nothing in this chapter limits the right of any person to donate, sell, or otherwise remove their recyclable materials so long as the removal otherwise complies with an authorized collector's franchise agreement and the provisions this chapter. The foregoing notwithstanding, the provisions of this chapter and an authorized collector's franchise agreement do not permit any hauling arrangement by which the generator pays any compensation to a third party for such removal, including any transaction or arrangement involving discounted or net fees for services provided in this chapter.
- B. Organic materials may be fed to animals on the premises where such organic materials is produced, provided that the premises are always kept in a sanitary condition to the satisfaction of the city manager; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable law including applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- C. Nothing in this chapter prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site, provided that such operation conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

Article III. Edible Food Recovery Requirements

9.19.220 Commercial edible food generator requirements.

- A. Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section, commencing January 1, 2024.
- C. Commercial edible food generators shall comply with the following requirements:
 - 1. Arrange to recover the maximum amount of edible food that would otherwise be disposed.
 - 2. Contract with or enter into a written agreement with food recovery organizations or food recovery services for: (a) the collection of edible food for food recovery; or (b)

acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.

3. Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or food recovery service.
4. Allow the city's designated enforcement agency to access the premises and review records pursuant to 14 CCR Section 18991.4.
5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each food recovery organization or food recovery service that collects or receives its edible food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those food recovery organizations or food recovery services:
 - i. The name, address and contact information of food recovery organization or food recovery service.
 - ii. The types of food that will be collected by or self-hauled to the food recovery organization or food recovery service.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of edible food, measured in pounds recovered per month, collected or self-hauled to a food recovery organization or food recovery service.

D. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, the California Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time.

9.19.230 Food recovery organization and food recovery services requirements.

- A. Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 1. The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
 2. The quantity in pounds of edible food collected from each commercial edible food generator per month.
 3. The quantity in pounds of edible food transported to each food recovery organization per month.
 4. The name, address, and contact information for each food recovery organization that food recovery service transports edible food to for food recovery.

- B. Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
1. The name, address, and contact information for each commercial edible food generator from which the organization receives edible food.
 2. The quantity in pounds of edible food received from each commercial edible food generator per month.
 3. The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.
- C. Food recovery organizations and food recovery services that have their primary address physically located in the city and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall annually report to the city the total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than April 1.
- D. In order to support edible food recovery capacity planning assessments or other studies conducted by the county, city, or designated entity, food recovery services and food recovery organizations operating in the city shall provide information and consultation to the city, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the city and commercial edible food generators. A food recovery service or food recovery organization contacted by the city shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the city.

Article IV. License or Contract

9.19.240 Contract.

The city may after a duly noticed public hearing, with or without having invited bids therefor, enter a contract, including an exclusive franchise agreement, with any responsible person, firm or corporation for the collection, removal or disposal of solid waste accumulated within the city. Such authorized person, firm or corporation shall be the authorized collector for the collection, removal or disposal of solid waste accumulated within the city as set forth in this chapter. The term of the contract, rates of collection, and other provisions of the contract shall be as provided by resolution of the governing body of the city. Where such a contract has heretofore been or hereafter is entered into between the city and a contractor for the collection, removal and disposal of solid waste, and the contractor shall have satisfactorily performed such contract, the city may, after a duly noticed public hearing, without inviting bids or proposals therefor, either prior to or after the expiration of such contract, extend or renew the same for such a period and on such terms and conditions as the city shall provide by resolution. The contractor shall be known as the authorized collector.

9.19.250 Service.

- A. Unless otherwise authorized by the city, the authorized collector must provide solid waste collection service in accordance with section 9.19.320 to all persons situated within the areas specified in such contract, provided payment for such service is made. The service shall be provided in a competent, efficient, clean and courteous manner.
- B. The use of recycling facilities and organic material processing facilities must comply with requirements set forth in section 9.19.310; and use of such facilities must be approved, in writing, by the city manager.
- C. The city may designate one or more intermediary transfer or processing stations of its choice and direct any authorized collector to deposit collected recyclable material, organic materials, and/or solid waste in said facility.

9.19.260 Minimum provisions.

The provisions of this chapter shall be the minimum requirements for the protection of the public health, safety, convenience and general welfare.

9.19.270 Authorized collector.

The authorized collector, in accordance with this chapter, shall be considered as and shall be an independent contractor and shall be responsible to the city for the result of the work to be done, but shall act under their own directions as to the manner of performing the work; and shall keep themselves and all of their employees insured under California's worker's compensation insurance requirements, and shall be insured against public liability and property damage, to be not less than twenty million dollars (\$20,000,000) plus any additional coverage required from time to time by the city (including all such liability for use or operation of motor vehicles used in the performance of work hereunder). Evidence of such insurance shall be filed with the city listing the city as additional insured.

9.19.280 Exclusive right.

The award of a contract hereunder shall grant the authorized collector during the term of the contract the exclusive right to collect, transport and dispose of all solid waste collected within the city except as otherwise expressly provided in this chapter; provided further, however, that debris box service for construction and temporary cleanup purposes may be provided by persons other than the authorized collector.

9.19.290 Performance bonds.

The person or entity to whom such contract shall be awarded shall file with the city a bond for the faithful performance of the contract in the sum of one hundred thousand dollars (\$100,000.00). The bond shall be immediately paid to the city upon determination, as provided in Section 9.19.350 hereof, that the authorized collector has failed to fully perform in a competent, efficient, clean and courteous manner all of the services provided by this chapter or the contract between the city and the authorized collector. In lieu of a performance bond the authorized collector may furnish alternate financial security approved by the finance director and city attorney.

9.19.300 Exceptions.

With the exception that the sanitary requirements of this chapter must be complied with, the provisions hereof shall not apply to persons collecting dead animals, bones or meat scraps for tallow plants or medical wastes.

Article V. Responsibilities of Authorized Collector

9.19.310 Regulations.

- A. Except as otherwise permitted by this chapter, and except for self-hauling which is not in lieu of regular weekly service, it is unlawful for any person to collect or carry solid waste through the streets of the city without first having entered a contract or obtained a permit from the city to do so.
- B. The authorized collector shall not permit any solid waste to fall or remain on any public street or private premises in the city, shall close all gates used by it in collection service, and shall operate as quietly as the circumstances allow.
- C. Collection and transportation equipment shall be maintained and utilized consistent with CCR, Sections 17341 through 17345.
- D. The authorized collector shall further abide by all applicable laws and the regulations and orders of the county health department or officer, and ordinances and general regulations of the city, now or hereafter adopted.

9.19.320 Periodic service.

Unless otherwise authorized by the city or by state law, the collector shall provide not less than weekly service to each owner, resident or tenant within the city. The authorized collector may terminate service to any owner, resident or tenant for nonpayment of the established rates if not fully paid for a period of two (2) months from and after the date such payment is due. Prior to termination of such service, the authorized collector shall notify the city and customer, in writing, of the proposed date of termination and the reason therefor. Such notice shall be given by the authorized collector to the city no less than ten days prior to the date of termination of service. The customer may request temporary suspension of service if the premises are to be vacated for a reasonable period, to be not less than two (2) weeks and to occur no more than three (3) times in a one (1) year period. The customer is also required to provide the authorized collector with a resumption date for service.

9.19.330 Liability.

The authorized collector and the city shall be exempt from responsibility and liability for tampering or misuse of any items left at curbside for collection and/or recycling should spillage or other mishap occur prior to possession by the authorized collector. Once the authorized collector takes possession of the solid waste, the authorized collector then assumes responsibility and liability.

9.19.340 Assignment.

Neither the collection contract nor any part thereof shall be assigned, either voluntarily or by operation of law, except upon the consent expressed by a resolution of the city.

9.19.350 Termination.

If the authorized collector refuses or neglects to comply with the terms of the contract or of any laws, ordinances or regulations above referred to, for a period of thirty (30) days after being notified in writing to do so by the legislative body of the city, then, after a hearing upon not less than ten (10) days' written notice to the authorized collector, the city shall be entitled to terminate the contract.

Article VI. Rates

9.19.360 Charge for service.

A charge shall be collected by the authorized collector at maximum rates to be established between the city and the authorized collector, the rates to be subject to change upon approval of an agreement between the city and the authorized collector. The property owner is responsible for all charges for solid waste removal, including recyclable materials. The rates shall provide to the authorized collector a fair and reasonable compensation and return.

9.19.370 Payment of rates.

It is unlawful for any person to refuse to pay the rates fixed for the collection of solid waste. Nonpayment may result in cessation of service, a violation punishable by law, and/or a lien against the property. It is unlawful for any person to dispose of solid waste, from premises owned, occupied or leased by them, other than by and through the authorized collector, except as provided in this chapter.

9.19.380 Disputed rates.

In any case where a dispute shall arise as to the rate or amount to be paid to the authorized collector, the city shall have the power of final determination of such dispute, and both the authorized collector and the owner, resident or tenant shall be bound thereby. In no event shall the city be obligated in any way to the authorized collector or any owner, resident or tenant for the collection of disputed accounts.

Article VII. Inspections and Enforcement

9.19.390 Inspections.

- A. The city manager, authorized collector, or designee is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to the provisions of the authorized collector's franchise agreement and applicable laws. This may include inspections and investigations, at random or otherwise, of any collection container, collection vehicle load, or transfer, processing, or disposal facility to confirm compliance with this chapter

and the provisions of the franchise agreement, subject to applicable laws. This section does not allow entry in a private residential dwelling unit for inspection. For the purposes of inspecting collection containers for compliance, the city manager or authorized collector may conduct container inspections for prohibited container contaminants using remote monitoring, and generators shall accommodate and cooperate with the remote monitoring.

- B. A person subject to the requirements of this chapter shall provide or arrange for access during all inspections (with the exception of the interior of a private residential dwelling unit) and shall cooperate with the city manager, authorized collector or designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in collection containers, inspection of edible food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of remote monitoring equipment, if a remote monitoring program is adopted; or (iii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties.
- C. Any records obtained by the city manager, authorized collector, or designee, during inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- D. The city, authorized collector or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this chapter.

9.19.400 Violation—Penalty.

- A. Any violation of this chapter may be enforced either as an infraction or as a misdemeanor, or by any remedy available to the city under this code, or under state law.
- B. Enforcement actions under this chapter may include issuance of an administrative citation and assessment of a fine. The city's procedures on imposition of administrative citations and fines as contained in chapter 1 shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter. Any section of this chapter may be enforced by the city of San Rafael or, if agreed to, by its designated enforcement agency.
- C. A violation may be punishable by:
 - 1. A fine not exceeding one hundred dollars for a first violation;
 - 2. A fine not exceeding two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period;
 - 3. A fine not exceeding five hundred dollars for each additional violation of the same provision of this code within any twelve consecutive-month period. Any citation issued after the issuance of a third citation or violation of the same provision of this code within any twelve consecutive-month period may be charged as a misdemeanor pursuant to the provisions of chapter 1.
- D. Other remedies allowed by law may be used, including civil action. The city may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. The city may choose to delay court action until such time as a sufficiently large

number of violations, or cumulative size of violations exist such that court action is a reasonable use of city staff and resources.

9.19.410 Damages.

In any civil action by an authorized collector against a person alleged to have violated Public Resources Code, Section 41950, the court may either allow trebled damages, as measured by the value of the material removed, or award a civil penalty of not more than one thousand dollars (\$1,000.00), whichever is greater, for each unauthorized removal, against the unauthorized person removing the recyclable material.

DIVISION 2. CEQA

The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the enhanced solid waste regulations, as provided for in this Ordinance will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency (the City) for the protection of the environment.

DIVISION 3. SEVERABILITY

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

DIVISION 4. 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 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, 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 or against the ordinance.

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 22nd day of February 2022 and ordered passed to print by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 7th day of March 2022.

LINDSAY LARA, City Clerk

SB 1383 Jurisdiction Responsibilities

Jurisdictions should create an action plan that lays out a path to complying with the law. Implementing the law may require:

- Updating hauling contracts to reflect SB 1383 collection requirements
- Adopting an enforceable mechanism/ordinance for collection, recycling, and food recovery requirements
- Planning for rate increases to support new collection and recycling requirements and to fund a food recovery network
- Determining staff and funding needed to implement the law, including
 - Health inspections that could be addressed through a partnership with the county department of public health
 - Model ordinance implementation, which may require staff to modify the model ordinance for the jurisdiction, legal staff to review the ordinance, and presentations to city/county meetings for approval

SB 1383 specifically directs jurisdictions to conduct the following activities.

Collection

Jurisdictions are required to provide organic waste collection to all residents and businesses, which means providing service automatically and not relying on the generator to subscribe.

- Beginning in 2022, SB 1383 requires every jurisdiction to provide organic waste collection services to all residents and businesses. This is what we refer to as automatically providing service, mandatory service, or universal service, in which the resident or business is automatically provided the service.
- The regulations standardize container colors across the state (to be fully implemented by January 1, 2036), and require a jurisdiction to place a label on each new container or lid provided to generators consistent with the container collection requirements (starting January 1, 2022).
- The regulations require contamination monitoring in curbside collection containers. Jurisdictions will typically delegate this task to their hauler.
- Jurisdictions can issue three types of waivers to generators:
 - De minimis
 - Physical space
 - Collection frequency
- CalRecycle can issue three types of waivers to jurisdictions that are eligible, which delay or exclude implementation of some of the requirements:

Additional Information

[Collection](#)

[Collection Systems](#)

[Collection Contamination](#)

[Collection Contamination](#)

- Low population
- Rural exemption
- Elevation waivers

Note: the regulations also place requirements on residents and commercial businesses.

Food Recovery

Jurisdictions are required to establish an edible food recovery program that recovers edible food from the waste stream. This includes:

- Assessing capacity of existing edible food recovery
- Establishing an edible food recovery program (and expanding existing infrastructure if necessary)
- Conducting inspections of:
 - Tier one commercial edible food generators and food recovery organizations and services beginning January 1, 2022
 - Tier two commercial edible food generators beginning January 1, 2024.
- Providing education and outreach

Additional Information

[Food Recovery](#)

[Jurisdictions](#)

[Donors](#)

[Food Recovery Organizations](#)

Education and Outreach

Jurisdictions are required to conduct education and outreach to all affected parties, including generators, edible food recovery organizations, and city/county department staff. This includes:

- Providing information on methods for the prevention of organic waste generation, recycling organic waste onsite, and sending organic waste to community composting
- Providing information to food donors regarding programs for the donation of edible food
- Providing materials in non-English languages so they are linguistically accessible to residents and businesses

Additional Information

[Education](#)

Procurement of Recycled Organic Products

Jurisdictions are responsible for procuring recycled organic waste products like compost, mulch, renewable natural gas (RNG), electricity, and recycled-content paper and paper products.

Procuring does not necessarily mean purchasing.

Additional Information

[Procurement Web Page](#)

[Procurement Calculator](#)

Organic Waste Product Requirements

Each jurisdiction will have a minimum procurement target for recycled organic waste products that is calculated based on its population.

CalRecycle will provide a calculator for a jurisdiction to use to calculate progress towards meeting their target.

CalRecycle will notify jurisdictions of their target Prior to January 1, 2022.

Jurisdictions may procure any combination of the following products to meet their target:

- Compost
- Renewable gas used for transportation fuels, electricity, heating applications, or pipeline injection
- Electricity from biomass conversion produced from organic waste

Recycled-Content Paper and Paper Product Requirements

All departments in a jurisdiction that make paper purchases will be required to purchase and keep purchase records for paper products that:

- Contain postconsumer recycled content
- Are recyclable

Capacity Planning

Jurisdictions are required to evaluate the jurisdiction's readiness and capacity to implement SB 1383, including organics collection and recycling and edible food recovery capacity.

Each county will lead this effort by coordinating with cities, special districts that provide solid waste collection services, and regional agencies located within the county.

Additional Information

[Capacity Planning](#)

[Capacity Planning for Organic Waste Recycling](#)

[Capacity Planning for Food Recovery](#)

Enforcement

Starting January 1, 2022, jurisdictions are required to conduct inspections and enforce compliance with SB 1383. Jurisdictions are required to adopt an ordinance or enforceable mechanism consistent with SB 1383 requirements by January 1, 2022.

Additional Information

[Model Ordinance](#)

Jurisdictions must do an annual compliance review of commercial businesses to ensure they are subscribed to collection service. This requirement was previously established by California's Mandatory Commercial Organics Recycling law (AB 1826, Chesbro, Chapter 727, Statutes of 2014).

Jurisdictions may choose to combine edible food generator with existing health inspections, which may consolidate resources.

Jurisdictions using a 3- or 2-container organic waste collection service are required to monitor contamination.

Recordkeeping and Reporting

Jurisdictions are required to maintaining accurate and timely records of SB 1383 compliance and reporting.

To reduce reporting, jurisdictions are required to maintain records and keep information in an Implementation Record.

Each jurisdiction is required to report to the Department annually on its implementation and compliance with the requirements of 1383.

CITY OF SAN RAFAEL

NOTICE OF PUBLIC HEARING

The City Council of the City of San Rafael will hold a public hearing:

- PURPOSE:** Public Hearing: To introduce and consider an ordinance amending the San Rafael Municipal Code to repeal and replace Chapter 9.19 - Refuse and Recycled Materials Collection and Disposal with new Chapter 9.19 - Solid Waste Collection and Disposal and Edible Food Recovery in accordance with Senate Bill 1383
- DATE/TIME/PLACE:** Tuesday, February 22, 2022, at 7:00 p.m.
Pursuant to state law, the public hearing will be held virtually. Please visit the City's website, www.cityofsanrafael.org, and view the meeting agenda for instructions on how to participate in the public hearing.
- WHAT WILL HAPPEN:** You may comment on the proposed ordinance. The City Council will consider all public testimony and will then decide whether to grant initial approval of the ordinance.
- IF YOU CANNOT ATTEND:** You may send a letter to City Clerk, City of San Rafael, 1400 Fifth Avenue, San Rafael, CA 94901 or by email city.clerk@cityofsanrafael.org.
- FOR MORE INFORMATION:** You may contact Cory Bytof, Sustainability Program Manager at (415) 485-3407 or cory.bytof@cityofsanrafael.org. Office hours are Monday through Friday, 8:30 a.m. to 5:00 p.m.

SAN RAFAEL CITY COUNCIL

/s/ LINDSAY LARA
LINDSAY LARA, City Clerk