



Agenda Item No: 4.a
Meeting Date: July 10, 2023

SAN RAFAEL CITY COUNCIL AGENDA REPORT

**Department: Community Development
City Attorney**

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Director
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City Manager Approval: 

TOPIC: ORDINANCE REGULATING CAMPING ON PUBLIC PROPERTY

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL ADDING CHAPTER 19.50 TO THE SAN RAFAEL MUNICIPAL CODE, ENTITLED "CAMPING ON PUBLIC PROPERTY" TO REGULATE CAMPING ON PUBLIC PROPERTY WITHIN THE CITY OF SAN RAFAEL

EXECUTIVE SUMMARY:

Staff recommends that the City Council adopt the ordinance adding Chapter 19.50 to regulate camping on public property in the City of San Rafael. The City currently regulates camping on public property in several chapters and sections of the municipal code. Generally, camping is absolutely prohibited on certain public property, including open space, city parking garages, and other properties that are specifically prohibited due to public health, safety, or welfare concerns. For all other public property, camping is prohibited, except where a person does not have alternative shelter available.

This proposed ordinance keeps the current framework regulating camping on public property in the City, but would add reasonable time, place, and manner conditions on camping by persons who have no alternative shelter available. Specifically, a camping area for one person would be limited to an area of 10 ft. by 10 ft. (100 sq. ft.). If two or more persons are occupying a camping area, the camping area may be expanded to up to 10 ft. by 20 ft. (200 sq. ft. total). Camp facilities, camp paraphernalia and other personal property would need to be stored and kept within these defined limits. In addition, under the proposed ordinance, no camping area may be used, occupied, or located within 200 ft. of another camping area. These restrictions are proposed to mitigate the significant public health and safety impacts and hazards that are associated with encampments, where groups of persons camp at one location or in close proximity to one another, and the adverse impact of waste, trash and other debris that is discarded or left unattended on public property. For properties where camping is absolutely prohibited, the following two restrictions would be added: i) no camping within 100 ft. of a playground, and ii) no camping within 10 ft. of public utility infrastructure. The new Chapter 19.50 would also consolidate all existing City regulations governing camping activities in one chapter of the municipal code.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

RECOMMENDATION:

Introduce and waive further reading of an ordinance adding Chapter 19.50 to the San Rafael Municipal Code regulating camping activity.

BACKGROUND:

Some individuals experiencing homelessness in the City, like that of many other cities throughout California, have established campsites on public property. City staff and our nonprofit partners working to end homelessness have successfully housed many chronically homeless individuals in publicly funded shelter and permanent supportive housing. Unfortunately, the units and shelters available in the City are typically full, except occasional turnover averaging two beds per week. Additionally, some individuals experiencing homelessness have refused available housing or shelter when offered. The City recognizes that the courts have held a right for individuals to camp on public property if they have no alternative shelter available to them. However, the courts also have found that cities may adopt regulations on the time, place, and manner of camping by persons with no alternative shelter and may abate public nuisances related to camping activities.

The current City of San Rafael ordinance, at section 19.20.080(C) of the San Rafael Municipal Code (SRMC) generally prohibits camping on public property as follows:

C. Camping.

1. No person shall camp, in any park, building or portion thereof, including the parking lot of any such area.
2. No person shall use or store camp facilities or camp paraphernalia in any park, building, or portion thereof, including the parking lot of any such area.
3. Nothing in this section shall be deemed to prohibit camping on all public property, including parks, when there is no alternative shelter available to the person camping; provided that the city manager may nevertheless absolutely prohibit camping at any time in one (1) or more specific parks where such prohibition is determined to be a threat to the public, health, safety, or welfare.

In recent years, the City has absolutely prohibited camping in certain public parks, including Boyd Park, open space, parking garages, and most recently Albert Park in March 2023. These prohibitions were adopted to mitigate adverse public health, safety, or welfare impacts associated with camping activities, especially those posed on shared public spaces for community and youth programs, and the concern over public safety and wildfire risk. These prohibitions have been accompanied with significant outreach and offers of assistance to try to connect individuals with resources and case management services.

Notwithstanding these efforts, and with a scarcity of housing options to offer all individuals in need of shelter, camping continues to be prevalent in the City. A 2022 survey of the number of people experiencing homelessness regionally, known as the Point-In-Time Count, estimated that 1,121 individuals experience homelessness in Marin County (830 of these were unsheltered, and 291 in shelters), including 348 individuals in the City of San Rafael (241 of these were unsheltered and 107 in shelters). The City Council's objective is to end homelessness in the City, and to this end has made significant investments in solutions to homelessness, particularly including permanent supportive housing. The City additionally conducts outreach and housing navigation to individuals experiencing homelessness, and funds organizations to provide shelter and case management.

Some of the City's recent efforts to assist residents experiencing homelessness have included:

- Affordable Housing Trust Fund contributions to 190 Mill Street (~\$1.1M), 3301 Kerner Boulevard (~\$2.1M), providing up to 40 shelter beds and 32 units of permanent supportive housing.

- Funding housing navigation, outreach and employment readiness services in the City. Contracts include case management services through County regional program (\$260K) and through Encampment Resolution Fund grant (\$522K), Downtown Streets Team cleanup efforts in the Downtown area, and at encampments in the City (\$200K), and Dignity on Wheels mobile showers (\$36K).
- Additional \$250K Encampment Resolution Fund grant awarded to City in June 2023, to be deployed in 2024.
- Specialized Assistance For Everyone (SAFE) Team. City funded Alternative Response Team three-year pilot (\$775K annually): provides mobile crisis to the community, especially to vulnerable populations, 12 hours/day and 7 days/week, dispatches crisis intervention workers with an emergency medical technician to respond to certain emergencies such as suicide prevention and psychiatric emergencies instead of law enforcement.
- Community Mental Health Liaison full-time staff position conducts outreach to population experiencing homelessness to build relationships and ensure adequate resource referral and works collaboratively with the organizations providing services within the City.
- Establishing Homelessness and Housing division and three staff positions within the Community Development Department, to maximize the City's capacity to gain funding, set policies, coordinate with partners and conduct community engagement in these key areas.
- Participating in the Countywide Coordinated Entry System, which has housed 600+ people since launch.

The City has engaged in robust efforts to document, analyze, and address the issues stemming from the impacts of individuals experiencing homelessness and related issues. City staff provides the following as an update on the current state of camping activities in the City:

- Beginning in April 2023, the City has been receiving consistent and growing complaints related to growing encampments at the Mahon Creek Path between Lincoln and Andersen Drive, along Andersen Drive between Irwin and Rice Streets, on City Hall grounds, and at a City-owned parking lot next to Falkirk Park. By far the majority of complaints and San Rafael Police Department calls for service come from the encampment of approximately 33 tents (as of June 28, 2023) at the Mahon Path (also known in the community as "Mahon Creek Path").
- The City has also received community complaints of increasing criminal activity over the past two months, in particular at the Mahon Path. The Marin County Major Crimes Task Force (an interjurisdictional task force) conducted an operation at Mahon Creek Path recently and arrested an individual camping there for methamphetamine trafficking. San Rafael Police Department conducts daily proactive extra patrols by officers with 23 police response events. Patrols have resulted in multiple arrests over the last month, citations for drug paraphernalia, and one medical hospitalization. Nuisance complaints include loud music, severe intoxication, bonfires and fighting, which can last into early morning hours at times.
- City staff counted 33 tents (or similar structures) at the encampment on Mahon Creek Path on June 28, 2023, representing an increase from 27 tents on June 6 and 19 tents on May 18. Current trends indicate that this number will likely continue to grow. Upon interviewing new arrivals to the encampment, staff learned that several arrivals were displaced from other campsites due to a CalTrans camp closure. Approximately half of the occupants have case management, and of these six could be described as working on a path toward housing. This group is receiving services and waiting for housing vouchers. Staff learned of at least one individual with a subsidized apartment who chooses to camp at the Mahon Creek Path, and at least two individuals who have left a stable shelter situation to stay in the encampment. At least one individual moved

to shelter recently. Shelter space and voucher availability are both expected to remain scarce for the foreseeable future until such time that adequate interim and permanent supportive housing is created.

- Refuse and waste continues to be a problem at the Mahon Creek Path encampment, which the City has addressed collaboratively with encampment occupants. Many occupants have kept orderly campsites and used bags provided by the City to collect trash. Some other individuals bring refuse into the camp and leave it in a sprawling, disorganized state. The City has removed and discarded unclaimed refuse, but has not cleared campsites or belongings. The City's Department of Public Works has collaborated with Mahon Creek Path occupants in conducting voluntary weekly pickups of trash every Thursday, taking trash items that are bagged or voluntarily surrendered by the occupants themselves. These pickups have removed 1-2 truckloads of garbage per week. The Downtown Streets Team also sends its volunteer teams weekly to address scattered waste and has removed dozens of 50-gallon bags with each visit to the encampment.
- The Specialized Assistance For Everyone (SAFE) Team has proactively maintained a daily presence at the Mahon Creek Path encampment over recent weeks, and has additionally responded to calls for service, with most of these calls coming from Mahon Creek Path occupants. The Specialized Assistance For Everyone (SAFE) Team has been dropping off food and health supplies to campers weekly to help build a relationship with individuals that might require crisis mental health services.
- The City's Mental Health Liaison provides a daily presence offering resources, and major social service agency partners, including Downtown Streets Team, St. Vincent de Paul Society, Ritter Center and Marin County's Health and Human Services who also provide regular outreach.

The City's primary concern is one of public health and safety. When an encampment site is established, where multiple persons camp in close proximity to one another in a concentrated area, it can generate considerable garbage or waste, become a magnet for illegal activity, and create a substantial negative impact on the neighboring community. City staff have been studying and analyzing alternative ways to address the impacts that camping has on the community, as addressing homelessness continues to be a challenge locally, regionally, statewide, and nationally. With these considerations in mind, and in consultation with the City Attorney's Office, staff are recommending an ordinance that would adopt reasonable time, place, and manner conditions to mitigate ongoing public health and safety concerns.

ANALYSIS:

The proposed ordinance would add SRMC Chapter 19.50 regulating camping on public property. The following summarizes the specific changes being proposed.

Existing Regulations (combined in Chapter 19.50)

Regulations prohibiting camping at certain public properties in the City would not change, except for minor editorial updates. These regulations are currently located in several chapters and sections of the municipal code, including those governing open spaces, parks, and parking garages. Under the proposed ordinance, these regulations would be consolidated in the new Chapter 19.50 so that all of the City's regulations specific to camping activities are found in the new chapter.

Camping is absolutely prohibited on the following properties:

- Open spaces (moved from Section 19.10.060)

- City parking garages (moved from Section 5.60.054)
- Public buildings and fenced areas, defined as “public facilities” (moved from Section 19.20.080)

Staff also proposes to keep the existing provision which allows the City Manager to absolutely prohibit camping at any time on one (1) or more public properties, or portion thereof, where such camping is determined to be a threat to public health, safety, or welfare. The City Council has previously relied on this provision to prohibit camping at Albert Park and Boyd Park. However, Staff also recommends that authority to adopt reasonable time, place, or manner conditions on camping on any one (1) or more public properties be added to this existing provision. This would allow the City Manager to condition camping activities, instead of absolutely prohibiting camping, on a certain public property in order to mitigate public health, safety, or welfare impacts. This provision is moved from Section 19.20.080 to the new Chapter 19.50 in the proposed ordinance.

New Regulations

There are two areas of change to the City’s existing camping regulations included in staff’s recommendation.

1. **Additions to the list of public property where camping is absolutely prohibited.**

Staff recommends some additions to the list of public properties where camping is absolutely prohibited.

Staff proposes to add the following two restrictions:

- No camping within 100 feet of a playground. This restriction is intended to mitigate the negative health and safety impacts that nearby camping areas have on children’s playgrounds. This restriction would apply to all children’s playgrounds located in parks identified in the Parks and Recreation Master Plan and public and private schools.
- No camping within 10 feet of public utility infrastructure. “Public utility infrastructure” is defined as public bathrooms, and electrical boxes, fire hydrants, and similar equipment used for providing public utility services, but does not include light or electrical poles. This recommendation serves to address incidents where persons have hacked into power supplies for illicit use, attached tents and tarps to equipment, or otherwise impeded access to public utility equipment. The City can enforce these activities through state law and other provisions of the municipal code; however providing a 10-foot buffer would add clarity, and aid in maintaining and protecting public utility infrastructure.

The following two restrictions are also added to the proposed ordinance, only for clarity purposes:

- No blocking or obstructing access to public facilities or private property
- No blocking or obstructing public rights-of-way and sidewalks

The City already enforces a “no camping” rule at these locations through enforcement of general provisions in state and local law governing public access to the city’s rights-of-way, and public and private facilities. Staff recommends adding these locations to the camping ordinance to facilitate enforcement.

2. **New time, place, and manner conditions.**

In an effort to address ongoing issues of public safety and access to public property, staff recommends incorporating the following conditions on camping areas occupied by persons with no alternative shelter:

- a) **Maximum physical space dimensions for camping areas**

- i. A camping area occupied by one person shall not exceed 10 ft. by 10 ft., (100 sq. ft. total), inclusive of camp facilities, camp paraphernalia, and personal property.
 - ii. If two or more persons are occupying one camping area, the camping area may be expanded to an area that shall not exceed 10 ft. by 20 ft., (200 sq. ft. total).
 - iii. Personal property, trash or debris, or any other items stored or discarded outside the camping area will be considered unattended personal property and will be stored or discarded according to City policy.
- b) Minimum distance to another camping area
- i. No camping area may be used, established, or occupied within 200 feet of another camping area.

These regulations are intended to restrict the proliferation of encampments and their attendant negative impacts. The regulations would protect public health, safety, and welfare; preserve public property for the enjoyment, safety, comfort and convenience of the public; enhance and preserve the orderly administration and management of public property; and preserve, protect, and prevent damages to public resources.

Each camping area would be limited in size to 10 ft. by 10 ft. (100 sq. ft.) when it is occupied by one person and may be expanded to 10 ft by 20 ft. (200 sq. ft.) for two or more persons camping together. This limits the amount of public space that a person may take over in order to sleep. It also requires persons to maintain their camp facilities, equipment, and other personal property within the maximum-permitted camping area, and prohibits them from storing or discarding items or trash beyond the camping area. This is intended to mitigate the negative impacts of waste and debris that is discarded or left behind on public property.

The proposed regulation would also prohibit establishing any camping area within 200 ft. of another camping area. This is intended to prevent the establishment and proliferation of high-concentration encampments. When groups of unsheltered persons camp in close proximity to one another on public property, forming a larger encampment, the public health and safety impacts and hazards are concentrated in and around that property and have a significant negative impact on the neighboring residents, businesses, and community. At locations where large-concentration encampments have been established, such as the Mahon Creek Path, the City responds to a significant increase in volume of public safety calls for service and complaints as compared with locations where campsites are more isolated and distanced from one another. The increased calls for service at encampments include sanitation, human waste, biohazards, and litter and refuse; abandonment of personal property; vandalism; theft; physical fights amongst the campers; public alcohol consumption and intoxication; drug possession and use, including reports of drug overdose, requiring medical transport to the hospital; obstruction of sidewalks, pathways, and other public rights of way; campfires; and disruptive behavior of encampment occupants. The encampments also take over large public spaces and areas of parks, preventing the public from using and enjoying these spaces.

The following table summarizes provisions of the proposed camping ordinance.

Proposed Ordinance	Denotes Change from Existing Ordinance
Camping prohibited on certain public property:	
Open spaces	n/a
City Parking garages	n/a
Public Facilities (e.g., buildings)	n/a
City Manager may prohibit camping, <u>or adopt time, place, or manner conditions on camping</u> , on one or more public properties at any time due to threat to public health, safety, or welfare	Underlined authority added
The City Council prohibited camping at Boyd Park and Albert Park	n/a
Within 100 ft. of playgrounds	New rule
Within 10 ft. of public utility infrastructure	New rule
Public rights-of-way and sidewalks	Added for clarity only *
Blocking access to public facilities and private property	Added for clarity only *
Other public property not listed above:	
Camping is prohibited, except where a person has no alternative shelter available.	n/a
Where excepted, time, place and manner conditions apply: <ul style="list-style-type: none"> - Camping area cannot exceed 10 ft. x 10 ft. (one person) or 10 ft. x 20 ft. (two or more persons). - All items must be kept/stored within maximum permitted camping area. - No camping area may be established within 200 ft. of any other camping area. 	New rule

* Currently enforced with other general state and local law.

Legal Analysis

This ordinance complies with *Martin v. Boise* (920 F.3d 584) (“*Martin*”), and other caselaw interpreting that ninth circuit decision. In *Martin*, the court held that the Eighth amendment’s cruel and unusual punishment clause prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public properties for individuals who cannot obtain shelter. The formula established in *Martin* is that the government cannot prosecute homeless people for sleeping in public if there “is a greater number of homeless individuals in [a jurisdiction] than the number of available” shelter spaces. However, the case also stated that despite that holding, a city is also not required to provide shelter, or allow anyone to sit, lie, or sleep on public property at any time and any place of their choosing.

The proposed time, place, and manner conditions on use of public property do not form a citywide camping ban as prohibited under *Martin v. Boise*. The City’s proposed ordinance does not prohibit individuals from sleeping anywhere in the city, or otherwise engage in the “universal and unavoidable consequences of being human.” The holding in *Martin*, while restricting local governments from

criminalizing the act of sleeping, does not prohibit a city from controlling the use of public space to require individuals to sleep anywhere in the city. As noted in a subsequent case, *Gomes v. County of Kauai*, where an ordinance was found not to violate *Martin*, although that ordinance did restrict some camping locations and activities, the court concluded that the ordinance did not prohibit individuals from sleeping *anywhere* in the public as long as those individuals had other locations to sleep.

The City's interest is in protecting public health, safety, and welfare; preserving public property for the enjoyment, safety, comfort and convenience of the public; enhancing and preserving the orderly administration and management of public property; and preserving, protecting, and preventing damages to public resources. The proposed ordinance intends to abate public nuisance behavior and criminal activity, such as drug trafficking, theft and violence, especially that occurs in high-concentration encampments. The camping area location and size restrictions are aimed at keeping public spaces in a clean and orderly condition, and in locations where harms to the community are reduced. These regulations are intended to address some of the collateral impacts that camping in public spaces can have, but otherwise does not prohibit the act of sleeping, or work to deprive individuals from using bedding and other items necessary to protect them from the elements in order to sleep; it merely requires that they be kept in a manner limiting the impact on the community.

Violation of the ordinance would result in the same consequences as the current ordinance. A person could be cited. In addition, unabated conditions may result in removal of violating campsites, and/or the temporary seizure and storage of personal property. Any removal of a campsite or seizure of property would not be completed without proper notice. Further, under City policy, any actions to address unremedied violations which may result in the removal of an encampment would include contacting occupants of violating campsite with information about available housing support services. Note that this ordinance does not place an affirmative obligation on the City to provide housing to violators of the ordinance. The City, however, is working with the County of Marin and other community partners in order to connect individuals with services.

This ordinance is a modest shift in the City's efforts to address the use of public property and seeks to balance the ability of the City to lawfully control public property with the fair treatment of individuals experiencing homelessness. For the reasons presented above, staff recommends that the City Council adopt the proposed ordinance.

COMMUNITY OUTREACH:

In designing and implementing the ordinance, City staff uses multiple communication channels and would continue to do so should the ordinance be adopted by Council.

Staff have engaged, and would continue to engage nonprofit organizations, shelters, outreach teams, and Marin County staff who work closely with the homeless population. This is done primarily through weekly calls with the Marin Alliance to Solve Homelessness, and City staff presented regarding the legal landscape and other community's approaches on June 22. Upon adoption of the proposed regulations, City staff would use this forum to continue to collaborate with the provider community to ensure a coordinated and comprehensive approach. These agencies help to ensure clients' understanding about how to comply with the ordinance and refers individuals to appropriate resources and services.

City staff responded to a high volume of complaints and concerns about the Mahon Creek Path and other encampments. Staff responds to every complaint and concern and takes this feedback into consideration when developing recommendations to the City Council on how to address them.

The City's Assistant Community Development Director and the City's Mental Health Liaison met with residents staying at the Mahon Creek Path, twice in an official capacity (with our visit communicated in

advance). Their comments and our observations have been incorporated into staff's recommendations as well. The Mental Health Liaison keeps track, to the extent possible, of persons camping at the Mahon Creek Path, their case management agency, and their status on the path to housing, and uses that information to ensure referrals to available services.

Staff and City officials also met with representatives of the most impacted businesses, educated them about jurisdictions' efforts and limitations, and incorporated their concerns into the ordinance.

All of these parties, particularly to persons camping at the Mahon Creek Path, would continue to receive education and engagement from City staff. If the proposed ordinance is adopted, staff would provide targeted education may include informative brochures and flyers, in English and Spanish, that outline the changes to the ordinance, explain its purpose, and provide clear instructions on accessing housing and shelter resources. Materials would also be distributed through libraries, community centers, and other relevant locations.

FISCAL IMPACT:

Adoption of the ordinance would result in City enforcement costs, some of which will be offset by reduction in cleanup and enforcement costs the City bears managing the current situation. Encampment response costs include the costs of retaining personal property held under the ordinance and cleanup of encampments, which may involve the collection and disposal of trash and potential hazardous material response. The San Rafael Police Department would be primarily responsible for enforcement and handling of personal property, while the Department of Public Works would provide support for coordinating the pickup and disposal of trash and hazmat response through its contractors.

First year cleanup costs would be accommodated and absorbed within the fiscal year 2023-24 budget. The Department of Public Works proposed fiscal year 2023-24 operating budget includes \$75,000 for services related to homeless encampment cleanup, including the potential need for hazardous material response.

Future costs are unknown and are dependent on changes in the homeless population and the amount of enforcement associated with the proposed ordinance.

OPTIONS:

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

1. Staff's recommended action to introduce the ordinance adding SRMC Chapter 19.50 (Camping on Public Property)
2. Introduce ordinance with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Introduce the ordinance adding Chapter 19.50 to the San Rafael Municipal Code Entitled "Camping on Public Property" to regulate camping on public property within the City of San Rafael.

ATTACHMENTS:

1. Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL ADDING CHAPTER 19.50 TO THE SAN RAFAEL MUNICIPAL CODE, ENTITLED “CAMPING ON PUBLIC PROPERTY” TO REGULATE CAMPING ON PUBLIC PROPERTY WITHIN THE CITY OF SAN RAFAEL

SECTION 1. FINDINGS

WHEREAS, the purpose of this ordinance is to enact regulations to address camping in or on public property in the City of San Rafael. The City Council has authority to adopt this ordinance pursuant to the California Constitution Article XI, section 7; and

WHEREAS, the City Council recognizes that the use, establishment, and occupation of camping areas by persons with no alternative shelter, and the activities often attendant with camping, have created adverse public health, safety, and welfare conditions within the City; and

WHEREAS, the City, along with the County of Marin and community partners, have been and are undertaking extensive actions to assist unsheltered persons in the City and region to find shelter and needed services; and

WHEREAS, in the 2019 case of *Martin v. City of Boise* (920 F.3d 584), the federal Court of Appeals for the Ninth Circuit held that the City of Boise’s criminal enforcement of its ordinance banning camping on all public property was unconstitutional when applied to individuals who had no alternative shelter available to them; and

WHEREAS, in consideration of the *Martin v. City of Boise* decision, and the present lack of sufficient alternative shelter for all persons without shelter in San Rafael, the City has not been strictly enforcing existing limits on camping in and on some public properties; and

WHEREAS, while the *Martin v. City of Boise* decision mandates that a city without sufficient alternative shelter may not criminalize the act of sleeping on public property, it does not require a city to allow camping on all public property, and does not prevent a city from prohibiting camping on specified public properties, or enacting other time, place, and manner conditions on camping; and

WHEREAS, the City Council recognizes and finds that there are public health and safety hazards and public nuisance activities and conditions frequently associated with camping on public property, and that there are certain public properties where the existence of campsites is incompatible with the necessary use of the property by the public, or where camping presents unacceptable hazards and/or costs to the City’s operations and to the public; and

WHEREAS, some unsheltered persons in the City live in makeshift shelters on public property, such as tents, tarps, non-permanent boarded structures, and other non-substantial

temporary structures, and accumulate, store, or leave behind garbage, debris, unsanitary hazardous materials, sewage, or drug paraphernalia; and

WHEREAS, when groups of unsheltered persons camp in close proximity to one another on public property, forming a larger encampment, the public health and safety impacts and hazards can be concentrated in and around that property and can have a substantial negative impact on the neighboring residents, businesses, and community; and

WHEREAS, camping on public property can lead to damage to public property, or hindrance of the operation or protection of public infrastructure and utilities, creating a potential health and safety hazard; and

WHEREAS, camping on public property can have a deleterious impact on the public use of public property, businesses, private property, and economic development within the City; and

WHEREAS, by this ordinance, the City Council seeks to restrict camping on certain public properties and to adopt reasonable time, place, and manner conditions on camping on public property by persons without alternative shelter; and

WHEREAS, regulating camping on public property is necessary to protect public health, safety, and welfare; preserve public property for the enjoyment, safety, comfort and convenience of the public; enhance and preserve the orderly administration and management of public property; and preserve, protect, and prevent damages to public resources.

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

SECTION 2. ADDITION TO SAN RAFAEL MUNICIPAL CODE. CHAPTER 19.50

Chapter 19.50 of the San Rafael Municipal Code, entitled “Camping on Public Property” is hereby added to read in its entirety as follows:

Chapter 19.50 – CAMPING ON PUBLIC PROPERTY

19.50.010. - Purpose.

The purposes of this Chapter include but are not limited to: protecting public health, safety, and welfare; preserving public property for the enjoyment, safety, comfort and convenience of the public; enhancing and preserving the orderly administration and management of public property; and preserving, protecting, and preventing damages to public resources. This Chapter prohibits conduct that unreasonably interferes with the administration and lawful uses of public property by establishing reasonable time, place and manner conditions related to camping on public property.

19.50.020 - Definitions.

As used in this chapter, the following terms shall have the following meaning:

- A. "Camp" or "Camping" means using public property as a place of residence or for living accommodation purposes, as evidenced by:
1. Remaining for prolonged or repetitious periods of time, not associated with ordinary recreational use of public property, and
 2. One or more of the following:
 - (a) Possessing camp paraphernalia; or
 - (b) Using or erecting camp facilities or other form of shelter; or
 - (c) Making a fire, cooking, or consuming meals; or
 - (d) Engaging in one or more of the following:
 - (i) sleeping or making preparations to sleep (including the laying down of bedding for the purposes of sleeping); or
 - (ii) Unattended storage of personal belongings, including storing camp paraphernalia or camp facilities.

The combined activities of (1) and (2) constitute camping when it reasonably appears, in light of all the circumstances, that a person is using public property as a living accommodation regardless of their intent or the nature of other activities in which the person might also be engaged.

- B. "Camp facility" means the use of a tent, hut, cot, bed, hammock, lean-to, shack, vehicle, or other temporary physical shelter.
- C. "Camp paraphernalia" means implements and equipment used for temporary residence, including, camp facilities, tarpaulins, mattresses, sleeping bags, bedrolls, blankets, sheets, pillows, luggage, backpacks, and cookware, cooking equipment, kitchen utilities, and similar equipment.
- D. "Camping area" means the primary physical area of occupation of a single camping person. A camping area occupied by one person shall not exceed 10 ft. by 10 ft., (100 sq. ft. total), inclusive of camp facilities, camp paraphernalia, and personal property. If two or more persons are occupying one camping area, the camping area may be expanded to an area that shall not exceed 10 ft. by 20 ft., (200 sq. ft. total). In no event shall any camping area, regardless of the number of occupants, exceed a space greater than 200 sq. ft.
- E. "Open space property" means any area described in San Rafael Municipal Code Section 19.10.020.

- F. "Playground" means an improved outdoor area designed, equipped, and set aside for children's play in a park or school that is not intended for use as an athletic playing field or athletic court, and includes any playground equipment, fall zones, surface materials, access ramps, and all areas within and including the designated enclosure and barriers.
- G. "Public facility" means any building, structure, or area enclosed by a fence located on public property, whether secured, unsecured, locked, unlocked, open, or enclosed.
- H. "Public property" means any real property within the jurisdiction of the City of San Rafael, which is owned, managed, or controlled by the City of San Rafael.
- I. "Public right-of-way" means any area described in San Rafael Municipal Code Section 11.04.020.
- J. "Public utility infrastructure" means public bathrooms, and electrical boxes, fire hydrants, and similar equipment used to provide public utility services, but does not include light or electrical poles.
- K. "Sidewalk" means any area in the City provided for the use of pedestrians, including planting areas, driveway approaches, or parking strips, between the public vehicular roadway and the edge of public right-of-way bordering, fronting, or adjacent to private property.
- L. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.
- M. "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled, and includes any trailer in tow of any size, kind, or description. For purposes of this chapter, a vehicle does not include a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, used by a sidewalk vendor engaging in sidewalk vending with a permit issued for such activity.

19.50.030 - Prohibited Camping on Certain Public Property.

A. Prohibited Camping

1. Open space property. No person or persons shall camp in or on any open space property, or portion thereof.
2. Parking garages. No person or persons shall camp in or on the premises of any parking garage, or portion thereof, owned or operated by the city.
3. Public facilities. No person or persons shall camp in or on any public facility, or portion thereof, including the parking lot of any such area, or in a manner that obstructs, blocks, or otherwise interferes with access to a public facility or private property.

4. Playgrounds. No person or persons shall camp within 100 ft. of any playground.
 5. Public utility infrastructure. No person or persons shall camp within 10 ft. of any public utility infrastructure.
 6. Public right-of-way and sidewalks. No person or persons shall camp in or on any public right-of-way or sidewalk, or portion thereof, or in a manner that obstructs, blocks, or otherwise interferes with use of or access to a public right-of-way or sidewalk.
- B. The city council or city manager may, by resolution or administrative order, absolutely prohibit camping, or adopt time, place, or manner conditions on camping, at any time in or on one (1) or more public properties, or portion thereof, where such camping is determined to be a threat to the public health, safety, or welfare.

19.50.040 - Prohibited Camping on Other Public Property; Exception.

- A. No person or persons shall camp in or on public property not listed under Section 19.50.030, or portion thereof, except as set forth below.
- B. Exception. Nothing in this section shall be deemed to prohibit camping on public property that is not listed under Section 19.50.030, or to prohibit the use of minimal measures for staying warm or dry while sleeping on such property, when there is no alternative shelter available to the person camping.
- C. When the exception set forth in subsection 19.50.040(B) applies, the following time, place, and manner conditions shall apply:
 1. No camping area shall be used for any purpose other than for living accommodation purposes. Living accommodation purposes includes sleeping and making preparations to sleep, including the laying down of bedding for the purpose of sleeping, by a person with no alternative shelter available to the person camping.
 2. In no event shall a camping area exceed the maximum physical space dimensions permitted for a “camping area” as defined in Section 19.50.020.
 - a. All camp facilities, camp paraphernalia, and other personal belongings shall be stored and kept within the maximum permitted camping area.
 - b. Items stored, kept, discarded, or otherwise existing outside of the camping area shall be presumed to be unattended personal property or trash or debris and may be stored or discarded according to city policy.

3. No person shall use, establish, or occupy more than one camping area.
4. No camping area may be used, established, or occupied within 200 ft. of another camping area.

SECTION 3. AMENDMENT TO SAN RAFAEL MUNICIPAL CODE SECTIONS 19.20.080(C), 19.10.060(4), AND 5.60.054

San Rafael Municipal Code section 19.20.080(C), entitled “Prohibited activities: Camping” shall be deleted and replaced with the following:

19.20.080(C) Camping. For laws and regulations regarding camping within the City of San Rafael, see San Rafael Municipal Code chapter 19.50.

San Rafael Municipal Code section 19.10.060(4), entitled “Open space regulations: Camping” shall be deleted and replaced with the following:

19.10.060(4) Camping. For laws and regulations regarding camping within the City of San Rafael, see San Rafael Municipal Code chapter 19.50.

San Rafael Municipal Code section 5.60.054, entitled “Overnight parking in parking garages prohibited” shall be deleted and replaced with the following:

5.60.054 Camping in City Parking Garages. For laws and regulations regarding camping within the City of San Rafael, see San Rafael Municipal Code chapter 19.50.

SECTION 4. This ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the city. The city council hereby finds that under section 15061(b)(3) of the State CEQA Guidelines, this ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

SECTION 5. SEVERABILITY

Every section, paragraph, clause, and phrase of this ordinance is hereby declared to be severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases, and the remaining portions of this ordinance shall continue in full force and effect unless amended or modified by the city.

SECTION 6. EFFECTIVE DATE AND PUBLICATION

This ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published and circulated in the City of San Rafael and shall be in full force and effect 30 days after its adoption. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Council members voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

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

THE FOREGOING ORDINANCE was first read and introduced at a special meeting of the San Rafael City Council on the 10th day of July 2023, and was passed and adopted at a regular meeting of the San Rafael City Council on the 17th day of July 2023 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk