

ORDINANCE NO. 2030

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.

19.50.050 – Conflict with Other Regulations.

To the extent that there is any conflict with any other provisions of this code, the standards and regulations of this chapter shall prevail.

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

SUMMARY OF ORDINANCE NO. 2030

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

This Summary concerns a proposed ordinance of the City of San Rafael, designated as Ordinance No. 2030, which will add Chapter 19.50 to the San Rafael Municipal Code. Ordinance No. 2030 is scheduled for adoption by the San Rafael City Council at its regular meeting of July 17, 2023. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

The City Council 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. For all other public property, camping is prohibited, except where a person does not have alternative shelter available. This proposed ordinance keeps the current rules regulating camping on public property in the City, but will add reasonable time, place, and manner conditions on camping by persons who have no alternative shelter available. Specifically, camping areas will be limited in size to 10 ft. by 10 ft. for one person and 10 ft. by 20 ft. for two or more persons. Items and personal property will need to be stored and kept within these defined limits. In addition, no camping area may be established within 200 ft. of another camping area. Among properties where camping is absolutely prohibited, the following two restrictions will 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 will also consolidate all existing City regulations governing camping activities in one chapter of the municipal code.

Copies of Ordinance No. 2030 will be available for public review as of Wednesday, July 12, 2023, on the City’s website: <https://www.cityofsanrafael.org>. You may also contact the City Clerk at (415) 485-3066 for information.

LINDSAY LARA
San Rafael City Clerk
Dated: 07/12/23