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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
DISTRICT OF NORTHERN CALIFORNIA

Residents of Camp Integrity- PRO SE
773 Lincoln Avenue, San Rafael CA 94901
PO BOX 2217, San Rafael CA 94912-2217
CampIntegritySanRafael@yahoo.com

Case No.: Number

023-04085 EMC

SHALEETA BOYD, AMALIA MENDOZA, FLOYD
BARROW, EDDY METZ, CHRISTIE COOK, ANKER
AARDALEN, COURTNEY HUFF, JEFF GROVE,
DONALD HENSLEY, CAMP INTEGRITY

Plaintiff,

vs.

CITY OF SAN RAFAEL, CRISTINE ALILOVICH,
CHRIS HESS, DAVID SPILLER, AMY MILLER,
KATE COLIN, ELI HILL, MARIBETH BUSHEY,
RACHEL KERTZ.

Defendant

VERIFIED COMPLAINT AND EX PARTE
APPLICATION FOR TRO AND PI, NOTICE OF
EXPARTE APPLICATION FOR TRO AND PI FOR
INJUNCTIVE RELIEF TO HALT
IMPLEMENTATION OF SAN RAFAEL MUNICIPAL
CODE §§19.50 AND SMC 19.20.080(C) ON AUGUST
16TH 2023

HEARING DATE: TBD

FILED CONCURRENTLY WITH INDEX OF
EXHIBITS

Notice of Ex-Parte Application For TRO and PI and Verified Complaint

For Injunctive relief

PARTIES OF RECORD, COUNSEL, and COURT PLEASE TAKE NOTICE

A lawsuit has been filed against the City of San Rafael. A Complaint and concurrent Ex-Parte Motion for TRO and Preliminary Injunction and Attached Exhibits is being filed in the US District Court. A judge shall be assigned to this lawsuit and motion, and a hearing date set on PLAINTIFFS motion for TRO. Upon receipt of a case number, the case number shall be emailed to your counsel so you may file a response on the docket.

VERIFIED COMPLAINT AND EX PARTE APPLICATION FOR TRO AND PI, NOTICE OF EXPARTE APPLICATION FOR TRO AND PI FOR INJUNCTIVE RELIEF TO HALT IMPLEMENTATION OF SAN RAFAEL MUNICIPAL CODE §§19.50 AND SMC 19.20.080(C) ON AUGUST 16TH 2023 HEARING DATE: TBDFILED CONCURRENTLY WITH INDEX OF EXHIBITS - 1

IN MEMORY OF JIMMY SANDERS

Jimmy Sanders intended on participating in this lawsuit, but died in his tent at Camp Integrity on July 29th. Jimmy was “number 1 lumper” when he used to work unloading big rigs at the port of Oakland when he was a young man. After he was a victim of a catastrophic car crash caused by a man fleeing from police, Jimmy became disabled which over the course of several years lead him into homelessness. He was kind, generous spirit and his death is both a loss for our community and for this action before the court. We remember and honor you Jimmy Sanders.

In Loving Memory



Jimmy Sanders

07.22.1959 - 07.29.2023

VERIFIED COMPLAINT AND EX PARTE APPLICATION FOR TRO AND PI, NOTICE OF EXPARTE APPLICATION FOR TRO AND PI FOR INJUNCTIVE RELIEF TO HALT IMPLEMENTATION OF SAN RAFAEL MUNICIPAL CODE §§19.50 AND SMC 19.20.080(C) ON AUGUST 16TH 2023 HEARING DATE: TBDFILED CONCURRENTLY WITH INDEX OF EXHIBITS - 2

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SMC 19.50 and SMC 19.20.080(c) will Increase Drug Overdoses By 15-25% over the next 10 years, accounting for around 1-4 deaths of unhoused people who otherwise could have survived and gone on to secure permanent housing.....32

SMC 19.50 and SMC 19.20.080(c) will Isolate Victims of Human Trafficking and Domestic Violence and Will Greatly Increase The Likelihood They Are Victims of Rape, Human Trafficking, and Other Forms of Violence.33

SMC 19.50 and SMC 19.20.080(c) will Destroy Camp Integrity, and Result in People Being Deprived of Bathrooms There, as well as food water and other necessities of life.....34

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1 Our Case In A Nutshell: City of San Rafael Implementing
2
3 Unconstitutional Ordinance Endangering the Health, Safety, and Civil
4 Liberties of All Unhoused People in the City Starting August 16th
5

- 6 1. **Plaintiffs** are unhoused people in the **City of San Rafael**.¹ All **Plaintiffs** are requesting help obtaining
7 housing or temporary shelter (See **Declaration, Attached Exhibits Labeled “Request for Shelter**
8 **Accomodations”** The shelters across the whole County of Marin are full according the CEO of the
9 County’s only shelter operator Homeward Bound in a July 22nd Interview with the *Pacific Sun* (See **Dec**
10 **Powelson, Exhibit B)**. **Plaintiffs Eddy Metz and Anker Aardalen** suffer from severe injuries that make it
11 extremely difficult to walk. **Plaintiffs** have no alternative shelter other than their tents at **Camp Integrity**
12 – an organized camp that provides its members bathrooms and mutual support.
- 13 2. **If Plaintiffs** lives were not hard enough already, On July 17th, the **City of San Rafael** passed an ordinance
14 the San Rafael Municipal Code §§19.50 and amending SMC §19.20.080 © that redefined a criminally
15 prosecutable offense of “camping”. The Ordinance only defines people who are unhoused i.e. people “who
16 use public property for living accommodations”. It defines camping as “repetitiously... consuming meals”
17 or “repetitiously... possessing backpacks” (See SMC 19.50). For unhoused people, it absolutely prohibits
18 them from "repetitiously... consuming meals" and “repetitiously... possessing backpacks” on sidewalks,
19 open spaces, and parks. It also seems to prohibits unhoused people from repetitiously consuming meals
20 close to one another within 200 feet of one another. The infraction for violating these broad ordinances –
21 that could be violated by having lunch – is a penalty of up to six months in jail and \$500 fine.
- 22 3. SMC 19.50 is connected with a code SMC 19.20.080 which makes it an infraction or misdemeanor for any
23 behavior that is in contravention to SMC §§19.50, hence the criminal liability and why this application

24
25
26 _____
27 ¹ The only exception is Courtney Huff, who intermittedly lives at **Camp Integrity** for her personal survival due to
28 issues surrounding domestic violence and human trafficking.

1 seeks to restrain implementation of both ordinances in tandem.

- 2 4. No reasonable person can understand what conduct is prohibited and what is not. Acknowledging that fact,
3 Assistant City Manager and Director of Homeless Services **Chris Hess** said at the July 17 City Council
4 meeting stated “Between the date in which [the ordinance is adopted] and the time from when its
5 implemented, we would begin right away with an education program for the homeless community
6 involving all of our service, we would be providing notice about all of the new rules.”
- 7 5. The ordinance will be implemented in 6 days – and no education has been provided except a confusing
8 flyer [See **Dec Brian Nelson Exhibit D**] . **Defendants** new ordinance will intensify danger policies against
9 **unhoused people** that has resulted in district judge Yvonne Gonzales Rogers to issue two separate
10 restraining orders against the City of San Rafael halting dangerous evictions of encampments this year
11 alone [See *Rivera v City of San Rafael et al* 4:23-cv-03804-YGR and *Hughes et al v Hess et al* 4:23-cv-
12 01063-YGR]²
- 13 6. With no genuine clarification of the ordinance **Plaintiffs** can only rely on the text of the ordinance itself,
14 and therefore seek to restrain the **City of San Rafael** from implementing what can only be described as a
15 legal dragnet that will subject every unhoused person in **San Rafael** to citation, arrest, and seizure of the
16 belongings for innocent conduct, sharing meals, possessing backpacks, engaging in free association, and
17 taking rudimentary precautions to protect themselves on all parts of the City.

18
19 Parties

20
21 **Plaintiff Shaleeta Boyd**

22 is an unhoused mother living at Camp Integrity

23 PO BOX 2217, San Rafael CA 94912-2217

24
25
26
27 ² Plaintiff Floyd Barrow in this case was also a plaintiff in *Hughes et al v Hess et al* 4:23-cv-01063-YGR
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1 CampIntegritySanRafael@yahoo.com

2 **Plaintiff Amalia Mendoza**

3 is an unhoused women living at Camp Integrity

4 PO BOX 2217, San Rafael CA 94912-2217

5 628-235-8938

6 CampIntegritySanRafael@yahoo.com

7 **Plaintiff Floyd Barrow**

8 is an unhoused Navy Veteran living at Camp Integrity

9 PO BOX 2217, San Rafael CA 94912-2217

10 CampIntegritySanRafael@yahoo.com

11 [415-532-4918](tel:415-532-4918)

12 **Plaintiff Eddy Metz** a senior suffering from chronic disabilities living at Camp Integrity

13 PO BOX 2217, San Rafael CA 94912-2217

14 CampIntegritySanRafael@yahoo.com

15 [415-497-6524](tel:415-497-6524)

16 **Plaintiff Christie Marie Cook** is unhoused living with schizoaffective disorder and caregiving for her

17 boyfriend Anker Aardalen who is confined in a wheel chair.

18 PO BOX 2217, San Rafael CA 94912-2217

19 CampIntegritySanRafael@yahoo.com

20 **Plaintiff Anker Aardalen** is unhoused man who is currently confined to wheelchair due to a severe knee

21 injury.

22 PO BOX 2217, San Rafael CA 94912-2217

23 CampIntegritySanRafael@yahoo.com

24 **Plaintiff Courtney Huff** is a women who periodically lives at Camp Integrity because she is periodically

25 displaced from her housing due to domestic violence and human trafficking.

26
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1 PO BOX 2217, San Rafael CA 94912-2217

2 CampIntegritySanRafael@yahoo.com

3 **Plaintiff Jeff Grove** is a resident of Camp Integrity who operates an impromptu cooling center for the camp.

4 PO BOX 2217, San Rafael CA 94912-2217

5 CampIntegritySanRafael@yahoo.com

6 [415-724-1822](tel:415-724-1822)

7 **Plaintiff Donald Hensley** is a resident of Camp Integrity who lost his home when the government destroyed
8 the boat he was living.

9 PO BOX 2217, San Rafael CA 94912-2217

10 CampIntegritySanRafael@yahoo.com

11 [415-532-9846](tel:415-532-9846)

12 **Plaintiff Brian Nelson** is a resident of Camp Integrity who has saved several people from overdose through
13 application Narcan and Adrenaline shots.

14 PO BOX 2217, San Rafael CA 94912-2217

15 Bknelson10@yahoo.com

16 CampIntegritySanRafael@yahoo.com

17 [415-879-0766](tel:415-879-0766)

18 **Plaintiff Camp Integrity** is an unincorporated association of people and their property, and a collectively
19 funded bathroom and handwashing station located at 773 Lincoln Ave, San Rafael. **Camp Integrity** is represented
20 collectively by **Plaintiffs**.

21 PO BOX 2217, San Rafael CA 94912-2217

22 CampIntegritySanRafael@yahoo.com

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1 **Defendants**

2 **Defendant City of San Rafael** is a municipal corporation located in Marin County California.

3 Address: 1400 Fifth Street, San Rafael CA, 94901

4 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

6 **Defendant Cristine Alilovich**, is the City Manager of City of San Rafael and is sued in their individual and

7 official capacity.

8 Address: 1400 Fifth Street, San Rafael CA, 94901

9 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

11 **Defendant David Spiller**, is Chief of Police of the City of San Rafael Police Department and is sued in his

12 official and individual capacity.

13 Address: 1400 Fifth Street, San Rafael CA, 94901

14 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

15 **Defendant Chris Hess**, is Assistant City Manager of City of San Rafael and director of homeless services and

16 is sued in his individual and official capacity.

17 Address: 1400 Fifth Street, San Rafael CA, 94901

18 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

19 **Defendant Amy Miller** Director of Public Works for City of San Rafael and is sued in her individual and

20 official capacity.

21 Address: 1400 Fifth Street, San Rafael CA, 94901

22 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

23 **Defendant Kate Colin** is Mayor of the City of San Rafael and is sued in her individual and official capacity for

24 passing a bill of attainder.

25 Address: 1400 Fifth Street, San Rafael CA, 94901

26 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

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1 **Defendant Eli Hill** is a City Council Person of the City of San Rafael and is sued in their individual and official
2 capacity for passing a bill of attainder.

3 Address: 1400 Fifth Street, San Rafael CA, 94901

4 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

5 **Defendant Rachel Kertz** is a City Council Person of the City of San Rafael and is sued in their individual and
6 official capacity for passing a bill of attainder.

7 Address: 1400 Fifth Street, San Rafael CA, 94901

8 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

9 **Defendant Maribeth Bushey** is a City Council Person of the City of San Rafael and is sued in their
10 individual and official capacity for passing a bill of attainder.

11 Address: 1400 Fifth Street, San Rafael CA, 94901

12 Counsel: Robert Epstein <rob.epstein@cityofsanrafael.org

13
14
15 **Jurisdiction and Venue**

16 This Court has original jurisdiction under 42 USC § 1983 and under the Americans With Disabilities Act Title II.

17
18 **Statement of Facts: City of San Rafael Passes Criminal Dagnet For**
19
20 **Unhoused People To Be Implemented on August 16th**

- 21
22
23 1. Based on information and belief, plaintiffs allege the following: Around June 2023, San Rafael Assistant
24 City Manager **Chris Hess**, San Rafael City Manager **Cristine Alliovich**, San Rafael Police Chief **David**
25 **Spiller**, San Rafael Director of Public Works **April Mills** communicated through a series meetings and
26 electronic communications to discuss changing the **City of San Rafael** ordinances regulating the public use
of property by people who are do not have housing and live outside.

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- 1 2. **Hess, Alliovich, Spiller, and Mills** decided that the proposed ordinance would single out unhoused people
- 2 for criminal sanctions for conduct that would not be criminalized for people who did have housing. For
- 3 example, it would allow people with housing to erect tents and have “picnics” but would deem the exact
- 4 same conduct by an unhoused person as criminal offense of “camping”.
- 5 3. Their proposed ordinance would also compel unhoused people to camp 200 feet away from one another.
- 6 4. At the end of June, **Hess, Alliovich, Spiller, and Mills** came to an agreement among themselves about
- 7 modifying **City of San Rafael** adding Chapter 19.50 to the city’s municipal code.
- 8 5. **Chris Hess** submitted that proposed amendment to **Christine Alliovich**, who approved it to be submitted
- 9 to the **City of San Rafael** city council for ratification.
- 10 6. On July 17th, 2023 the ordinance was ratified unchanged by the **City of San Rafael City Councilmembers**
- 11 **Kate Colin, Eli Hill, Maribeth Bushey, and Rachel Kertz**
- 12 7. Unless enjoined by this court, the ratified ordinance will go in effect on August 16th 2023.
- 13 8. A copy of the SMC §§ 19.50 is shown in **Exhibit A**.
- 14 9. The passage SMC §§19.50 also amended the definition “Camping” in 19.20.080(C). Under the new
- 15 provisions, SMC §19.20.080 (C) is combined with definitions in SMC 19.50.
- 16 10. Through SMC §19.20.080 (C), engaging in “unlawful camping” is subject to the enforcement provisions
- 17 of SMC §19.20.110. Those enforcement provisions includes criminal prosecution as a misdemeanor or
- 18 infraction under SMC §1.42.010.
- 19 11. The powers spelled out in SMC §1.42.010, means that a violation §§19.50 and § 19.20.080(c) includes up
- 20 to six months in jail and a \$500 dollar fine.
- 21 12. A true and correct copy of the Title 19.20 of the San Rafael Municipal Code, including 19.20.080(c) and
- 22 19.20.110, is shown in **Exhibit B**
- 23 13. A true and correct copy of the Title 1.42 of the San Rafael Municipal Code, including 1.42.010 is shown in
- 24 **Exhibit C**

1 **Plaintiffs Have Served Defendants This Complaint Instant Motion**

2
3 14. **Plaintiffs** now sue to halt the implementation above the above conduct. **Defendants** been served notice of
4 this complaint motion on August 10th [See Proof of Service]. Plaintiffs have been on notice that a legal
5 challenge to the ordinance since July 28th [See Dec Mendoza ¶21]

6 7 Ex-Parte Application For TRO: Standard of Review

8 15. “A temporary restraining order is an extraordinary and temporary “fix” that the court may issue without
9 notice to the adverse party if, in an affidavit or verified complaint, the movant “clearly show[s] that
10 immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be
11 heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A).” Quoting from *Sacramento Homeless Union et al v City*
12 *of Sacramento et al 2:22-cv-01095-TLN-KJN Dkt. No. 39 (August 3rd 2023 Order GRANTING TRO)*. To
13 obtain a preliminary injunction, the plaintiff has the burden to “establish [1] that he is likely to succeed on
14 the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the
15 balance of equities tips in his favor, and [4] that an injunction is in the public interest.” *Winter v. Nat. Res.*
16 *Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). Under the sliding-scale approach adopted by the Ninth Circuit in
17 *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, Courts must weigh these factors using a “sliding
18 scale” approach such that where there are “serious questions going to the merits,” a preliminary injunction
19 may still be issued so long as “the balance of hardships tips sharply in the plaintiff’s favor and the other
20 two factors are satisfied.” *Short v. Brown*, 893 F.3d 671, 675 (9th Cir. 2018) (quoting *Alliance for the Wild*
21 *Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011.)) To determine whether to issue a TRO, the courts
22 in the Ninth Circuit apply the same analysis used to evaluate a motion for preliminary injunction. *McCarthy*
23 *v. Servis One, Inc.* 2017 U.S. Dist. LEXIS 32622, at 9-10(N.D. Cal. Mar. 7. 2017)

24 16. Temporary restraining orders are governed by the same standard applicable to preliminary injunctions. See
25 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, n. 7 (9th Cir. 2001). A temporary
26 restraining order “should be restricted to serving [its] underlying purpose of preserving the status quo and

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1 preventing irreparable harm just so long as is necessary to hold a hearing, and no longer.” See *Granny*
 2 *Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974).
 3 District Courts have wide discretion in issuing TROs in order to support due process and uphold the
 4 judicial review. Reflecting that policy, the Ninth Circuit generally does not accept appeals TROs (see *E.*
 5 *Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 762 (9th Cir. 2018) (order) (“Ordinarily, a TRO is not an
 6 appealable order.”).

7 17. **Plaintiff** have standing to halt the impending violation of our civil rights of the planned implementation of
 8 SMC §§19.50 and SMC 19.20.080 © on August 16th. “One may seek to enjoin an impending constitutional
 9 violation, *City of Los Angeles v. Lyons*, 461 U.S. 95, 101 (1983), *Babbitt v. United Farm Workers Nat’l*
 10 *Union*, 442 U.S. 289, 298 (1979). a citizen does not have to wait for consummation of an order
 11 appropriating property to challenge it on constitutional grounds. See *Horne v. Dep’t of Agric.*, 576 U.S.
 12 350, 360–62 (2015); see also *Pakdel v. City & Cnty. of San Francisco*, 141 S. Ct. 2226 (2021) (a taking
 13 claim ripens when government arrives at a final decision).

14 15 16 **First Cause of Action 42 USC §1983 Violation of Eighth**

17 **Amendment: Criminalization of Involuntary Status. (By All** 18 **Plaintiffs Against All Defendants)** 19

20
21
22 18. The Eighth Amendment prohibition against cruel and unusual punishment “imposes substantive limits on
 23 what can be made criminal and punished as such.” *Ingraham v. Wright*, 430 U.S. 651, 667-68 (1977).

24 19. The Supreme Court has interpreted the scope of those limitations to find that laws criminalizing an
 25 individual’s status, rather than specific conduct, are unconstitutional. See, e.g., *Robinson v. California*, 370
 26 U.S. 660, 666-67 (1962) (striking down a state statute that made it a criminal offense to be addicted to

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1 narcotics on the ground that it made an addicted person “continuously guilty of [the] offense, whether or
 2 not he has ever used or possessed any narcotics within the state, and whether or not he has been guilty of
 3 any antisocial behavior there.” Such a statute would be akin to a law making “it a criminal offense for a
 4 person to be mentally ill, or a leper, or to be afflicted with a venereal disease,” and would “be universally
 5 thought to be an infliction of cruel and unusual punishment.”). Id.

6 20. The Ninth Circuit has extended the protections of Eighth Amendment prohibitions on criminalization of
 7 status to people who are involuntarily homeless. In *Martin V Boise* articulated that the prohibition against
 8 criminalizing people based on involuntary homelessness to be unconstitutional. “the principle ... that the
 9 Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the
 10 unavoidable consequence of one's status or being.” Id. This line was recently reaffirmed in *Johnson v City*
 11 *of Grants Pass*, and expanded to include Eighth Amendment protections, holding that City’s “cannot
 12 enforce its anti-camping ordinances to the extent they prohibit “the most rudimentary precautions
 13 a homeless person might take against the elements”

14 21. The passage SMC 19.50 also amended the definition “Camping” in 19.20.080(C). Under the new
 15 provisions, SMC 19.20.080 (C) is combined with definitions in SMC 19.50.

16 22. Through SMC 19.20.080 (C), engaging in “unlawful camping” is subject to the enforcement provisions of
 17 SMC 19.20.110. Those enforcement provisions includes criminal prosecution as a misdemeanor or
 18 infraction under SMC 1.42.010.

19 23. The powers spelled out in SMC 1.42.010, means that a violation SMC §§ 19.50 via § 19.20.080(c)
 20 includes up to six months in jail and a \$500 dollar fine.

21 24. By transference, violating SMC 19.50 simultaneously activates SMC 19.20.080(c) and is therefore
 22 punishable by up to six months in jail.

23 25. A true and correct copy of the Title 19.20 of the San Rafael Municipal Code, including 19.20.080(c) and
 24 19.20.110, is shown in **Exhibit B**

25 26. A true and correct copy of the Title 1.42 of the San Rafael Municipal Code, including 1.42.010 is shown in
 26 **Exhibit C**

- 1 27. SMC 19.50 and SMC 19.20.080(C) together violate the Eighth Amendment because the only issues
2 penalties based on peoples housing status. If a housed person repetitively consumes meals at a park
3 bench "ordinary recreational use" - but if a homeless person who perpetually uses public spaces for
4 "living accommodations" eats a sandwich at the same bench everyday they could be designated as
5 "camping" and exposed to criminal liability.
- 6 28. Because of the over vague language of "living accommodation" versus "recreational use" the ordinance
7 creates criminal liability on unhoused people at all times, for engaging innocent and involuntary conduct
8 such as repetitiously consuming meals and repetitiously possessing backpacks on public property on all
9 properties in San Rafael, even though no shelter is available.
- 10 29. This violates the holding in *Martin v. City Boise*, 902 F.3d 1031, 1048 (9th Cir. 2018).that the "Eighth
11 Amendment prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public
12 property for homeless individuals who cannot obtain shelter."
- 13 30. It also violates the Eighth Amendment under *Robinson v. California* , 370 U.S. 660, 666-67 (1962) because
14 it makes unhoused people "lepers" - who face criminal punishment for consuming meals repetitiously on
15 public property while people who have housing can repetitively consume meals as much as they want
16 without fear of criminal penalties
- 17 31. In *Robinson*, the Supreme Court struck down a state statute that made it a criminal offense to be
18 addicted to narcotics on the ground that it made an addicted person "continuously guilty of [the] offense,
19 whether or not he has ever used or possessed any narcotics within the state, and whether or not he has
20 been guilty of any antisocial behavior there." Such a statute would be akin to a law making "it a criminal
21 offense for a person to be mentally ill, or a leper, or to be afflicted with a venereal disease," and would
22 "be universally thought to be an infliction of cruel and unusual punishment."). *Id*
- 23 32. San Rafael Municipal Code 19.50.020 (A) defines camping. "Camp" or "Camping means using public
24 property as a place of residence or for living accommodation purposes as evidenced by:
25
26

1 1. *Remaining for prolonged repetitious periods of time, not associated with*
2 *ordinary recreational use of public property, [Emphasis added] and.*

3 2. *One or more of the following:*

4 a. *Possessing camp paraphernalia [such as a backpacks, luggage]; or*

5 b. *Using or erecting camp facilities or other form of shelter; or*

6 c. *Making a fire, cooking, or consuming a meal*

7 d. *Engaging in one or more of the following*

8 i. *Sleeping or making preparation to sleep including the laying down of*
9 *bedding for the purposes of sleeping); or*

10 ii. *Unattended storage of personal belongings, including storing camping*
11 *paraphernalia*

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

15 **SMC 19.50.020 (C)** defines “Camp paraphernalia” means implements and equipment
16 used for temporary residence, including, camp facilities, tarpaulins, mattresses, sleeping bags, bedrolls,
17 blankets, sheets, pillows, luggage, backpacks, and cookware, cooking equipment, kitchen utilities, and
18 similar equipment.

19 33. Under this ordinance, someone who lives outside due to lack of housing faces ongoing criminal liability for
20 almost any activity – including “consuming meals” and possessing “luggage” because they are using
21 public property as “living accommodations”

22 34. An unhousted person who comes to a park bench to eat lunch for would guilty under the two prong test for
23 defining “camping” under **SMC 19.50** because it would presence of “Repetitious periods of time...
24 consuming meals OR possessing backpacks... constitutes camping when it appears... that [they are] using
25

1 public property as living accommodation regardless of their intent or the nature of other activities in which
2 the person might be engaged” could be cited for violating SMC 19.50 and SMC 19.20.080(c)

3 35. However a person who has housing and who eats a sandwich at the same bench everyday during their lunch
4 break wouldn’t violate the ordinance because it would not appear “they are using public property as living
5 accommodations”.

6 36. This criminalization of peoples housing status rather than the conduct they are engaged in is reaffirmed in
7 other parts of the code. As is defined in San Rafael Muni Code **19.20.010(c)** “Camp” or “Camping” means
8 “using a public place for living accommodation purposes... “Camp” or “camping” **shall not mean**
9 **occupying camp facilities for temporary picnicking, recreating, or resting purposes**”. The point of this
10 distinction for the City of San Rafael is creating a criminal penalty for people who eat, carry back packs,
11 only if they are known to be homeless while allowing people who have housing to engage in identical
12 conduct.

13 37. San Rafael again reaffirms its commitment to only criminalize status, and not conduct, in the final lines of
14 SMC 19.50.020(A) *“The combined activities of (1) and (2) constitute camping when it reasonably appears*
15 *in light of all the circumstances, that a person is using public property as a living accommodation*
16 *regardless of their intent or the nature of other activities in which the person might also be engaged.”*

17 38. This means if someone is known to be homeless, goes to a park to have a picnic, stops at a park bench to
18 eat a sandwich - faces criminal liability even if they themselves don't consider themselves to be camping,
19 or if their intent and the nature of their other activities .

20 39. To use the text of an ordinance, an unhoused person would be guilty of an infraction or misdemeanor for
21 *“Remaining for prolonged repetitious periods of time, not associated with ordinary recreational use of*
22 *public property, ... consuming a meal OR possessing a back pack OR similar equipment... when it*
23 *reasonably appears...a person is using public property as a living accommodation regardless of their intent*
24 *or the nature of other activities in which the person might also be engaged..*

1 40. This means that we and all other unhoused people are singled out for criminal liability because of our
2 housing status, while other people with housing can engage in the identical conduct and not face
3 consequences.

4 41. This distinguishment violates the jurisprudence established in *Robinson v. California*, 370 U.S. 660, 666-67
5 (1962) that undergirds *Johnson*. That this ordinance is fixated on criminalizing people for their status as
6 being homeless, instead of actual conduct, and makes Plaintiffs continuously guilty of criminal violations
7 because their status and therefore become "lepers"

8 42. At the same time, people who are housed can engage in the exact same conduct and will face no criminal
9 liability because their identical conduct will be "recreational" rather than for "living accommodations".

10
11 **Second Cause of Action Violation 42 USC § 1983 Fourteenth**
12 **Amendment Void for Vagueness Doctrine: No Reasonable Person**
13 **Would Be Able to Understand What Conduct Is Criminalized and What**
14 **Is Allowed Under SMC 19.50 and SMC 19.20.080(c) (All Plaintiffs**
15 **Against All Defendants)**
16
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21

22 43. Plaintiff reincorporates the preceding paragraphs as if fully set forth herein.

23 44. An outgrowth of the Fourteenth Amendment due process clause is the Void-For- Vagueness Doctrine,
24 which applies scrutiny to laws that inflict criminal punishment. "A statute is vague when the conduct it
25 forbids is not ascertainable". See *Chicago v. Morales*, 527 U. S. 41, 56 (1999) (striking down an
26 ordinance that barred alleged gang members from associating in public) See Also *Coates v. City*

1 of *Cincinnati*, 402 U.S. 611 (1971) (striking down an ordinance criminalizing three or more people
2 loitering together).

3 45. A vague statute often occurs when a statute creates a “dragnet” that criminalizes constitutionally
4 protected behavior and behavior a city can normally prohibit (*Gregory v. City of Chicago*, 394
5 U.S. 111 (1969) (BLACK concurring) (Holding that criminal prohibitions must be narrowly tailored
6 to achieve state interests)

7 46. Vagueness is also closely related to whether that standard fails to incorporate *mens rea* and
8 *scienter* elements to criminal prosecution (see *United States v. United States Gypsum Co.*, 438
9 U.S. 422 (1978) See also *Colautti v. Franklin*, 439 U.S. 379 (1979).

10 47. The burden is on the government to establish standards for the laws it enforces, and evidence of
11 vagueness can be shown by a failure to show “persistent efforts . . . to establish a standard”
12 *United States v. L. Cohen Grocery Co.*, 255 U. S. 81, 91 (1921) (Quoting from *Johnson v. United*
13 *States*, 576 U.S.(2015))

14 ***SMC 19.50 and SMC 19.20.080(c) Are a Legal Dragnet That Criminalizes***
15 ***Repetitiously Eating Food, Possessing Backpacks and Other Innocent Conduct For***
16 ***People Experiencing Homelessness***
17

18
19 48. Plaintiff reincorporates the preceding paragraphs as if fully set forth herein.

20 49. For SMC 19.50. The operative terms that define criminal and non-criminal activity for camping are
21 “living accommodation” and “ordinary recreational use”. These vague terms are at least as
22 imprecise as criminal prohibitions on conduct the Supreme Court has declared void for
23 vagueness in past decades In *Coates v. Cincinnati*, 402 U. S. 611 (1971), the Court struck down
24 a municipal ordinance making it a criminal offense for “three or more persons to assemble ... on
25 any of the sidewalks ... and there conduct themselves in a manner annoying to persons passing
26 by” *Ibid*. The Court held the ordinance to be unconstitutionally vague because “it subject[ed]

1 the exercise of the right of assembly to an unascertainable standard, and [was] unconstitutionally
2 broad because it authorize[d] the punishment of constitutionally protected conduct." *Id.*, at 614.

3 Laying down blankets closing to one another, laying down in close proximity together, or sharing
4 meals, are basically identical to the conduct that was protected in *Coates* and *Morales*.

5 50. SMC 19.50 has the exact same infirmity because "living accommodation" and "ordinary recreation
6 use" are so vague that one person possessing a back pack or eating a meal could be criminally
7 cited, while an identical behavior of someone wouldn't be illegal. To look at some vignettes of
8 implementing ordinance using SMC 19.50.020A(2)(a):

9 *Remaining for prolonged repetitious periods of time, not associated with ordinary*
10 *recreational use of public property, ... consuming a meal OR possessing a backpack OR luggage OR Similar*
11 *Equipment... constitute camping when it reasonably appears...a person is using public property as a living*
12 *accommodation regardless of their intent or the nature of other activities in which the person might also*
13 *be engaged (SMC 19.50.020A(2))... shall be guilty of a misdemeanor or infraction (see SMC 19.20.080(C),*
14 *19.40.130, and See SMC 1.42.010)*

15 51. Put another way, regardless of Plaintiffs intent or the nature of other activities they are engaged in will be
16 guilty of a crime if they are repetitively in a place possessing their backpack or consuming meals. Plaintiffs
17 will be guilty of a crime if they repetitively come to a public place to eat a lunch - like on the sidewalk of
18 Saint Vinnies where people get food almost everyday and people commonly eat on the sidewalk. The only
19 reason they will be subject to criminal liability is because they don't have housing, and therefore not
20 recreational users of public property under San Rafael's criminal enforcement scheme.
21

22
23 ***City of San Rafael Tries To Justify Its Legal Dragnet With An "Exception" Which***
24 ***City Officials Refuse to Make A Standard For.***

25
26
27 VERIFIED COMPLAINT AND EX PARTE APPLICATION FOR TRO AND PI, NOTICE OF EXPARTE
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1 52. Failure of “persistent efforts . . . to establish a standard” can provide evidence of vagueness.
 2 *United States v. L. Cohen Grocery Co.*, 255 U. S. 81, 91 (1921) (Quoting from *Johnson v United*
 3 *States*).

4
 5 53. **City of San Rafael** refuses to establish a standard for its alleged “camping exception”. The city
 6 touts the idea that people can erect isolated, semi-permanent camps public property that are not
 7 defined in SMC 19.50.030. But, when asked where those properties allegedly are, San Rafael
 8 refuses to answer **See Declaration Mendoza ¶21 Declaration Powelson ¶8**. City
 9 Councilmember Rachel Kertz laid down in the July 22nd edition of the *Pacific Sun* City Council
 10 Member: “We’re not saying here’s where you go next”. Pressed for answers by Plaintiffs **See Dec**
 11 **Powelson Exhibit B ¶12** the City has not responded with any standard, and has failed to perform
 12 on its promise of an education campaign to **See Powelson ¶7 and Dec Metz ¶12 Hensley ¶11**
 13 **Boyd ¶13 Aardalen ¶13 Mendoza ¶20 Nelson ¶13 Huff ¶12**, except by providing a single page flyer that
 14 does accurately describe the broad criminalization of SMC §§19.50 and SMC §19.20.080(c) **See Dec Brian**
 15 **Nelson Exhibit D**. No reasonable person can understand what conduct is allowed and what is prohibited.
 16 The only thing that has been provided to some people are a vague, one page flyer that does not provide
 17 clear definitions of where people and Live [see id, **Dec Powelson ¶8**

18
 19 ***SMC 19.50.020 (A) Does Not Have The Mens Rea or Scierter Requirement For***
 20 ***Criminal Prosecution***

21
 22
 23 54. [t]he existence of a *mens rea* is the rule of, rather than the exception to, the principles of Anglo-
 24 American criminal jurisprudence." *Dennis v. United States*, 341 U. S. 494, 341 U. S. 500 (1951).

25 55. **SMC 19.50** makes an unreasonable exception to *mens rea* rule. In **SMC 19.50.020(A)** the
 26 ordinance strikes the *mens rea* rule “shall constitute camping... regardless of their intent or the
 27 nature of other activities in which the person might also be engaged”\

1 56. For a homeless person - camping be constituted from just repetitively going to a bench to eat a
2 sandwich even when they don't consider it to being camping. That is innocent, lawful behavior -
3 that could be criminalized under this ordinance. As such, the statute is "a trap for those who act in
4 good faith." *United States v. Ragen*, 314 U. S. 513, 314 U. S. 524 (1942).

5
6 **Third Cause of Action 42 USC §1983 – Violation of the First**
7 **Amendment Claim For Freedom of Assembly And Association**
8
9 **Because Constitutionally Protected Expressive Activities and Free**
10 **Association are Criminalized to an Unascertainable Standard. (All**
11 **Plaintiffs Against All Defendants)**
12

13
14
15 57. Plaintiff reincorporates the preceding paragraphs as if fully set forth herein.

16 58. Plaintiffs Void-for-Vagueness claim is closely associated with a violation of
17 Plaintiffs First Amendment claims. As was found in *Coates v Cincinnati* 402 U.S.
18 611 (1972), "The vice of the ordinance lies not alone in its violation of the due
19 process standard of vagueness. The ordinance also violates the constitutional
20 right of free assembly and association. Our decisions establish that mere public
21 intolerance or animosity cannot be the basis for abridgment of these
22 constitutional freedoms. See *Street v. New York*, 394 U. S. 576, 394 U. S. 592;
23 *Cox v. Louisiana*, 379 U. S. 536, 379 U. S. 551-553; *Edwards v. South Carolina*,
24 372 U. S. 229, 372 U. S. 238; *Terminiello v. Chicago*, 337 U. S. 1; *Cantwell v.*
25
26

1 Connecticut, 310 U. S. 296, 310 U. S. 311; Schneider v. State, 308 U. S. 147,
2 308 U. S. 161. The First and Fourteenth Amendments do not permit a State to
3 make criminal the exercise of the right of assembly simply because its exercise
4 may be "annoying" to some people. If this were not the rule, the right of the
5 people to gather in public places for social or political purposes would be
6 continually subject to summary suspension through the good faith enforcement of
7 a prohibition against annoying conduct. [Footnote omitted] Quoting from *Coates v*
8 *Cincinnati* 402 U.S. 611 (1972)
9

10
11 59. Here, the City is finding that the existence of unhoused people "consuming meals" or
12 "possessing backpacks" is a nuisance. But sharing meals, sitting and lying next to a friend
13 is exercise of Free Association.

14
15 60. Here for example, Plaintiffs go to a Saint Vincent de Pauls on a regular basis to
16 get food. Saint Vincent de Pauls gives bagged lunches. Often, Plaintiffs eat food
17 or drink water that has provided around the side walk there. Will this "repetitious
18 ... consuming meals" be something the City of San Rafael cracks down, making
19 it a crime to drink water and eat granola bars outside of a soup kitchen? As
20 written, the ordinance could result in that.

21
22 61. SMC 19.50 and SMC 19.20.080(c) punishes constitutionally protected conduct to
23 an unascertainable standard, and is "unconstitutionally broad because it
24 authorize[s] the punishment of constitutionally protected conduct." *Id.*, at 614
25 (See *Coates*)
26

1 **Fourth Cause of Action 42 USC § 1983 – Violation of Article 1**
2
3 **Section 9 Clause 3 Bill of Attainder Because SMC §§19.50 SMC**
4 **19.20.080(c) Punishes A Definable Group With Extra-Judicial**
5
6 **Punishment While Allowing Other Plausible Suspects To Engage In**
7
8 **Identical Behavior. (All Plaintiffs Against All Defendants)**

9
10 62. Plaintiff reincorporates the preceding paragraphs as if fully set forth herein.

11 63. Article 1 Section 9 Clause 3 of the United States Constitution states "No Bill of
12 Attainder or ex post facto Law shall be passed." The clause thus prohibits all
13 legislative acts, "no matter what their form, that apply either to named individuals or
14 to easily ascertainable members of a group in such a way as to inflict punishment on
15 them without a judicial trial. . . ." United States v. Lovett, 328 U.S. 303, 315 (1946)

16 64. Fletcher v. Peck, 6 Cranch 87, 10 U.S. 138, stated that "[a] bill of attainder may affect the life
17 of an individual, or may confiscate his property, or may do both."

18
19 65. The Bill of Attainder Clause is to be liberally construed in the light of its purpose to prevent
20 legislative punishment of designated persons or groups. Cummins v. Missouri, 4 Wall. 277; Ex
21 parte Garland, 4 Wall. 333; United States v. Lovett, 328 U. S. 303. Pp. 381 U. S. 447-449.

22 66. The prohibition of Bills of Attainders applies to the State of California through the
23 Fourteenth Amendment.

24
25 67. Through Article I Section 7 of the California State Constitution, the City Council of the **City of**
26 **San Rafael** city council is a "quasi-legislative" body with power to make ordinances with the

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1 full force of law within the bounds of the city. By transference, **City of San Rafael** and its City
2 Council is prohibited from passing bills of attainder.

3 68. SMC §§19.50 in conjunction with SMC § 19.20.080(c) is a bill of attainder inflict punishment
4 on a discernible group – people who are unhoused and “using public property for living
5 accommodations” – and inflicts punishment without a judicial trial, including seizure of
6 property and deprivation of liberty as described above in this motion.
7

8 69. SMC §§19.50 in conjunction with SMC § 19.20.080(c) targets unhoused people even when the
9 same conduct could be engaged by other plausible people just because they don’t “use
10 public property for living accommodations”.
11

12 70. People with housing who are free to repetitiously consume meals, possess backpacks, and
13 even erect tents for “recreational purposes” See SMC 19.20.020 (c) *““Camp” or “camping”*
14 *shall not mean occupying camp facilities or using camp paraphernalia for temporary picnicking,*
15 *recreating, or resting purposes.”*

16 71. Because the infliction of punishment is only against people who are unhoused, and not
17 people who are housed engaging in identical conduct – the ordinances target a specific
18 targetable group for extrajudicial punishments, and is therefore a Bill of Attainder.
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1 **Fifth Cause of Action 42 USC § 1983 Fourteenth Amendment Equal**
2
3 **Protection Claims Because the Laws Only Apply To People Who**
4 **Are Unhoused While Allowing People With Housing To Engage in**
5 **Identical Conduct (All Plaintiffs Against All Defendants)**
6

7
8 72. The guaranty of "equal protection of the laws is a pledge of the protection of equal
9 laws." *Yick Wo v. Hopkins*, 118 U. S. 356, 118 U. S. 369. As the Supreme Court found in
10 *American Society of Journalists & Authors, Inc. v. Bonta*, "[t]he Equal Protection Clause
11 prohibits states from denying to any person within its jurisdiction the equal protection
12 of the laws." 15 F.4th 954, 964 (9th Cir. 2021) (citation, alteration, and internal
13 quotation marks omitted), cert. denied 142 S. Ct. 2870 (2022).

14
15
16 73. For the reasons already listed above, **Plaintiffs** will be subject to unequal protection of
17 the law. **Plaintiffs** can be subject to criminal punishment because they "use public
18 property for living accommodations". However people with housing can engage in
19 identical conduct because the city can deem it "ordinary recreational use".
20

21 74. This unascertainable criminalizes peoples status, and does not perform a compelling
22 rational interest.
23

1 **Sixth Cause of Action : Violation American With Disabilities Act**
2
3 **Because SMC 19.50 and 19.20.080(c) Disparately Impact Plaintiffs**
4 **With Disabilities: (Brian Nelson, Amalia Mendoza, Christy Cook,**
5 **Eddy Metz, and Ankor Aardalen, Against All Defendants)**
6
7

8 75. Plaintiffs reincorporate the preceding paragraphs as if fully set forth herein.

9 76. Title II ADA claim requires pleading that the defendant “failed to make reasonable accommodations to its
10 program to make it accessible to disabled people as required by the ADA’s implementing regulation, 28
11 C.F.R. § 35.130(b)(7)(i).” Id. at 1043; see also *McGary v. City of Portland*, 386 F.3d 1259, 1266 (9th Cir.
12 2004) (“[A] claim of discrimination based on failure reasonably to accommodate is distinct from a claim of
13 discrimination based on disparate impact.” (quoting *Henrietta D. v. Bloomberg*, 331 F.3d 261, 276-77 (2d
14 Cir. 2003))).

15 77. Under Disparate Impact Doctrine the Ninth Circuit has repeatedly recognized
16 that facially neutral policies may violate the ADA when such policies unduly
17 burden disabled persons, even when such policies are consistently enforced.
18 See, e.g., *Martin v. PGA Tour, Inc.*, 204 F.3d 994, 999-1000 (9th Cir. 2000)
19 (holding that a golf association rule banning use of golf carts in certain
20 tournaments violated the ADA when it failed to modify this rule for a disabled
21 golfer with a mobility impairment), *aff’d*, 532 U.S. 661, 121 S.Ct. 1879, 149
22 L.Ed.2d 904 (2001). In *Crowder v. Kitagawa*, 81 F.3d 1480 (9th Cir. 1996), the
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Ninth Circuit held that the State of Hawaii discriminated against a class of

1 visually impaired plaintiffs by refusing to make modifications to a facially
 2 neutral policy requiring all animals entering the state, including guide dogs, to
 3 be quarantined for 120 days. The Ninth Circuit held that the State discriminated
 4 against plaintiffs because this facially neutral and universally enforced policy
 5 "burden[ed] visually-impaired persons in a manner different and greater than it
 6 burden[ed] others." *Id.* at 1484; see also *Rodde v. Bonta*, 357 F.3d 988, 998
 7 (9th Cir. 2004) ("[I]n *Crowder*, we confirmed that . . . state action that
 8 disproportionately burdens the disabled because of their unique needs remains
 9 actionable under the ADA.").

10
 11
 12
 13 78. **Plaintiff Eddy Metz** has a torn meniscus and can barely walk and uses a walker to get around See **Dec**
 14 **Metz ¶6**

15 79. **Plaintiff Anker Aardalen** has a severe injury to his knee that is filling up with water, he is confined to
 16 wheelchair for most of his activities **Dec Aardalen ¶11¶12**

17 80. **Plaintiff Brian Nelson** has severed tendons from an attempted murder, he also suffers from PTSD from
 18 the same incident. He suffers diabetes and sleep apnea and requires extra car to manage his chronic
 19 conditions See **Dec Brian Nelson**.

20 81. **Plaintiff Christy Cook** suffers from suffers from Schizo effective Disorder **Dec Cook ¶11**

21 82. **Plaintiff Amalia Mendoza** suffers from complex PTSD from early childhood sexual trauma. See **Dec**
 22 **Mendoza**

23 83. **Eddy Metz, Anker Aardalen, Brian Nelson, Christy Cook and Amalia Mendoza** have requested
 24 accomodations for their disabilities to the **City of San Rafael, Chris Hess, Cristine Alilovich, David**
 25 **Spiller and Amy Miller**. No interactive process has occurred for these requests.

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1 84. The new ordinance as written will disproportionately effect these people and there ability by causing
2 further displacement and loss of property necessary for survival in a way that disparately impacts their
3 disabilities.

4 85. **Christy Cook** for example, had her medications for her schizoaffective disorder by San Rafael Police in
5 the past, and this will be more likely in the future under the new ordinance.

6 86. **Anker Aardalen** and **Eddy Metz** will have fewer people around him to help him move in his wheel chair,
7 and take care of their injuries and secure food and water.

8 87. **All Plaintiffs** suffering from disabilities will lose critical assistance in gain food, water, shade, and access
9 to housing services as a result of **SMC §§19.50 and SMC 19.20.080(c)** focus on isolating people from one
10 another.

11 88. Because of these disabilities, the question of disparate impact will turn on how the **City of San Rafael**
12 provide mitigating resources to mitigate the impact on these disabilities. So far, **City of San Rafael** has
13 provided nothing.

14 **Seventh Cause of Action 42 USC § 1983- Fourteenth Amendment**

15 **Claim Under The State Created Dangers Doctrine Because SMC**

16 **§§19.50 and SMC §19.20.080© Will Deprive Plaintiffs of Access to**

17 **Food, Water Shade, Bathroom, and Will Result in the Destruction of**

18 **Plaintiffs Survival Gear and Camp Integrity. (All Plaintiffs Against**

19 **All Defendants)**

20
21
22 89. Under the holding of *Kennedy v. City of Ridgefield*, 439 E 3d 1055 (9th Cir. 2006), the Ninth Circuit
23 recognizes liability under substantive due process where a state or local official act to place a person in a
24 situation of known danger with deliberate indifference to their physical safety.” To prove a cause of action

25
26
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1 of under the State Created Danger Doctrine, a Plaintiff must prove (1) “the officers’ affirmative actions
 2 created or exposed h[im] to actual, particularized danger that [h]e would not otherwise have faced”; (2)
 3 “the injury was foreseeable”; and (3) “the officers were deliberately indifferent to the known danger.”
 4 *Martinez v. City of Clovis*, 943 F.3d 1260, 1271 (9th Cir. 2019). The third element, deliberate indifference,
 5 requires “proof that a municipal actor disregarded a known or obvious consequence of his action” which is
 6 “a stringent standard of fault.” *Id.* at 1274 (quoting *Patel v. Kent Sch. Dist.*, 648 F.3d 965, 974.

7 90. The State Created Danger Doctrine for unhoused people is also undergirded with Eighth Amendment
 8 Protections under *Johnson v City of Grants Pass* which holds that City’s “cannot enforce its anti-camping
 9 ordinances to the extent they prohibit “the most rudimentary precautions a homeless person might take
 10 against the elements” *id.*

11 91. SMC 19.50 and SMC 19.20.080 (c) are going create on a structural basis an ongoing state created danger
 12 where people who have no housing or alternative shelter will be separated from food, water, bathrooms. It
 13 will expose women who are victims of domestic violence to greater threats of violence, by depriving them
 14 of capable guardianship against attackers [. It will expose people who are at risk of overdose, to greater risk
 15 of overdose by depriving them of mutual aid of people to administer Narcan, adrenaline shots, and to call
 16 emergency services to revive them from the overdose.

17 ***SMC 19.50 and SMC 19.20.080(c) will Increase Drug Overdoses By 15-25% over the***
 18 ***next 10 years, accounting for around 1-4 deaths of unhoused people who otherwise***
 19 ***could have survived and gone on to secure permanent housing.***
 20

21
 22 92. **Plaintiff Anker Aardalen** recently suffered from an accidental overdose Dec Aardalen. His life was saved
 23 because people nearby to him had access to Narcan *id.*

24 93. **Plaintiff Brian Nelson** has revived multiple people at Camp Integrity to stop them from dying from
 25 overdose **See Dec Nelson**. He is a trained veterinarian technician, and has the skills to administer
 26 adrenaline shots which he has done to save someone at Camp Integrity *id* ¶

27 VERIFIED COMPLAINT AND EX PARTE APPLICATION FOR TRO AND PI, NOTICE OF EXPARTE
 28 APPLICATION FOR TRO AND PI FOR INJUNCTIVE RELIEF TO HALT IMPLEMENTATION OF SAN
 RAFAEL MUNICIPAL CODE §§19.50 AND SMC 19.20.080(C) ON AUGUST 16TH 2023 HEARING DATE:
 TBDFILED CONCURRENTLY WITH INDEX OF EXHIBITS - 32

1 94. People being in close proximity to one another is a protective factor in stopping overdose deaths. Recent
2 statisticial research has shown that a significant number of overdose death by unhoused people are caused
3 by eviction and displacement events **See Dec Dr. Schonberg ¶**

4 95. The intention of SMC 19.50 is to spread unhoused people out and not associate with one another. The
5 exception under SMC 19.50 requires people to camp 200 feet from one another.

6 96. The result of this is that when overdoses occur, people will not have access to people close by to call for
7 emergencies, or administer Narcan and adrenaline to revive them from the overdose.

8 97. **Dr. Jeffrey Schonberg**, reviewing the ordinance and recent research predicts that the ordinance will cause
9 a 15%-25% increase in overdose deaths, or around 1-4 people dying every year who otherwise could have
10 survived and gone onto be housed.

11
12 *SMC 19.50 and SMC 19.20.080(c) will Isolate Victims of Human*
13 *Trafficking and Domestic Violence and Will Greatly Increase The Likliehood They Are*
14 *Victims of Rape, Human Trafficking, and Other Forms of Violence.*
15

16
17 98. **Plaintiffs Courtney Huff and Shaleeta Boyd** are unhoused in large part due to domestic violence.

18 99. Women survivors of domestic violence are at greater risk of violence, and rely on capable guardianship to
19 prevent further violence. **See Dec Dr. Schonberg**

20 100. The ordiancne will deprive all **Plaintiffs** from their social networks which they rely on, make them easier
21 targets for attack, and expose them to violence.

22 101. This violence will disproportionally impact women and victims of domestic violence.
23
24
25
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27 VERIFIED COMPLAINT AND EX PARTE APPLICATION FOR TRO AND PI, NOTICE OF EXPARTE
28 APPLICATION FOR TRO AND PI FOR INJUNCTIVE RELIEF TO HALT IMPLEMENTATION OF SAN
RAFAEL MUNICIPAL CODE §§19.50 AND SMC 19.20.080(C) ON AUGUST 16TH 2023 HEARING DATE:
TBDFILED CONCURRENTLY WITH INDEX OF EXHIBITS - 33

1 *SMC 19.50 and SMC 19.20.080(c) will Destroy Camp Integrity, and Result*
2 *in People Being Deprived of Bathrooms There, as well as food water and other*
3 *necessities of life.*
4

5
6 102. **All Plaintiffs** are members of **Camp Integrity** – which is an organized camp that provides its own portable
7 bathrooms and handwashing stations. Volunteers also drop off donations of water, food, blankets, and other
8 necessities. District Courts have found that the deprivation of organized encampments that share resources
9 is a state created danger. An instructive case for this court is another case filed by self-represented litigant
10 in the case *Blain et al v California Department of Transportation*. In that case, Judge Orrick issued a
11 temporary restraining order with the following reasons:

12
13 *“Here, there are “serious questions going to the merits,” Cottrell, 632 F.3d at 1132, that*
14 *the state’s imminent removal of the plaintiffs, when done without sufficient warning or plans for shelter,*
15 *would expose them to unjustifiable dangers they otherwise would not face. Cf. Patel, 648 F.3d t 971–72;*
16 *Hernandez, 897 F.3d at 1133. The first notice of the removals that appears in the record was on July 15,*
17 *2022, giving them just a few days’ warning. See, e.g., Dkt. No. 2-2, Ex. N. Yet many of the plaintiffs have*
18 *planted deep roots at Wood Street. Many have been there for significant periods. See, e.g., Dkt. No. 2-1,*
19 *Ex. A at 5 (six years); id., Ex. C at 14 (four years). They have erected shelters, acquired possessions, and*
20 *built connections with others. See, e.g., id., Ex. A at 5. The encampment not only offers shelter from*
21 *elements but also facilities for hygiene. See, e.g., id. Removing the plaintiffs from this environment in a*
22 *hurried manner without adequate plans to provide housing threatens to deprive them of their only sure*
23 *source of shelter, safety, and the resources that come with it” Quoting from Blain et al v California*
24 *Department of Transportation ND- 3:22-cv-04178-WHO Dkt. No. 40 (ORDER GRANTING TRO)*

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27 VERIFIED COMPLAINT AND EX PARTE APPLICATION FOR TRO AND PI, NOTICE OF EXPARTE
28 APPLICATION FOR TRO AND PI FOR INJUNCTIVE RELIEF TO HALT IMPLEMENTATION OF SAN
 RAFAEL MUNICIPAL CODE §§19.50 AND SMC 19.20.080(C) ON AUGUST 16TH 2023 HEARING DATE:
 TBD FILED CONCURRENTLY WITH INDEX OF EXHIBITS - 34

1 103. Here, **Camp Integrity** provides all **Plaintiffs** with portable bathrooms and a handwashing station, [See Dec
2 **Barrow**] and also provides support, donations of water, food, and guardianship of violence.

3 104. If the **City of San Rafael** deprives **Plaintiffs** of their access to **Camp Integrity** and the health and hygiene
4 protections it provides with alternatives, then **All Plaintiffs** will be exposed to particularized dangers with
5 deliberate indifference.

6
7
8 **If the Court Does Not Intervene Plaintiff Will Suffer Irreparable**
9 **Harm, Including Injury, Death, Violence as well as Wrongful Arrest**
10 **and The Oppression That Comes From Continuous Threat of**
11 **Criminal Prosecution under SMC §§19.50 SMC §19.20.080(c)**
12
13

14
15 105. "It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable
16 injury." *Hernandez v. Sessions*, 872 F. 3d 976, 994 (9th Cir. 2017). If the Ordinance is passed, all **Plaintiffs**
17 and all unhoused people will suffer a violation of their constitutional violation by having the threat of
18 unjust criminal prosecution hanging above our heads.

19 106. Being exposed to safety and health threats by dint of governmental action with short notice meets the
20 irreparable-injury element. Cf. *Santa Cruz Homeless Union v. Bernal*, 514 F. Supp. 3d 1136, 1145
21 (N.D. Cal. 2021). (Quoting from *Blaine et al v California Department of Transportation*, ND- 3:22-cv-
22 04178-WHO, Dkt No 40) Order GRANTING TRO.

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27 VERIFIED COMPLAINT AND EX PARTE APPLICATION FOR TRO AND PI, NOTICE OF EX PARTE
28 APPLICATION FOR TRO AND PI FOR INJUNCTIVE RELIEF TO HALT IMPLEMENTATION OF SAN
RAFAEL MUNICIPAL CODE §§19.50 AND SMC 19.20.080(C) ON AUGUST 16TH 2023 HEARING DATE:
TBD FILED CONCURRENTLY WITH INDEX OF EXHIBITS - 35

1 **Balance of Equities and Public Interest Both Tip Sharply in**
2
3 **Plaintiffs Favor Because Defendants Are Failing To Establish**
4 **Standards for The Ordinance or Genuinely Educate Plaintiffs**
5
6 **About What SMC §§19.50 and 19.20.080(c) Will Actually**
7 **Criminalize**
8

9
10 **107.**City of San Rafael through its director of homeless services **Chris Hess** has promised to provide education
11 about the rules, as well as a weekly popup service offering at Camp Integrity **Dec Powelson ¶8**. **Hess** and
12 the **City of San Rafael** has failed to perform on that promise except by providing a one page flyer that
13 does not accurately reflect what SMC §§19.50 actually prohibits [See **Dec Brian Nelson, ¶16**]. The flyer
14 only talks about the “exception to camping”, even when the city refuses to define what properties the
15 exception applies to **Dec Powelson ¶8**

16 **108.**However as shown above, SMC §§19.50 in conjunction with SMC §§19.20.080(c) are far more than a
17 requirement people set up tents 200 feet away from one another. It is prohibition of people repetitiously
18 being with each other, consuming meals or possessing backpacks. The flyer in **Nelson ¶16** gives a vague
19 promise that people will be able to set up campsites at undefined properties – but it does not inform
20 impacted members of the unhoused community about the broad ways the new ordinances incur criminal
21 liability for innocuous conduct.

22 **109.**The fact that the promises of the **City** are not being performed show that at a minimum, both the public
23 interest and balance of equities tip sharply in **Plaintiffs** that the **City of San Rafael** much clearly spell out
24 its ordinances and cures the infirmities of its laws.

1 **Conclusion**

2
3 110.SMC §§ 19.50 and SMC §19.20.080(c) are not just an attack on our rights as people who don't have
4 housing – it as an attack on United States Constitution. If local governments are allowed to implement such
5 pernicious laws, the Constitution will cease to have meaning. The result is chaos, and degradation of the
6 rule of law. The court should intervene and halt implementation SMC §§19.50 and SMC §§19.20.080 (c).

7
8 **Prayer for Relief**

- 9 (a) The Court issue a temporary restraining order and preliminary injunction enjoining defendants from
10 enforcing SMC §§19.50 and SMC §19.20.080 (c)
- 11 (b) The Court issue a temporary restraining order and preliminary injunction enjoining defendants from
12 destroying Camp Integrity, and otherwise displacing residents in a manner that violates their constitutional
13 rights.
- 14 (c) The Court issue a permanent injunction from violating plaintiffs Civil Rights as pleaded above.
- 15 (d) Plaintiffs demand trial by jury.
- 16 (e) The court appoint plaintiffs an attorney as the court deems necessary for effective justice.
- 17 (f) The court appoint **Camp Integrity** with an attorney to represent it as an unincorporated association.

18
19 **Verification**

20 See Attached Page.

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27 VERIFIED COMPLAINT AND EX PARTE APPLICATION FOR TRO AND PI, NOTICE OF EXPARTE
28 APPLICATION FOR TRO AND PI FOR INJUNCTIVE RELIEF TO HALT IMPLEMENTATION OF SAN
RAFAEL MUNICIPAL CODE §§19.50 AND SMC 19.20.080(C) ON AUGUST 16TH 2023 HEARING DATE:
TBD FILED CONCURRENTLY WITH INDEX OF EXHIBITS - 37

Amalia A. Mendoza

Verification

Under Federal Rules of Civil Procedure 11, We the undersigned, submit the complaint against the City of San Rafael and its agents and swear under penalty of perjury that our complaint is made to do substantial justice and for no improper purpose.

1. Name: *Jelf Grove*
a. Signature *Jelf Grove*
b. Date: *July 25 2023*

2. Name: *Courtney E. Huff*
a. Signature *C. Huff*
b. Date: *July 25, 2023*

3. Name: *KARLA METZ*
a. Signature *Karla Metz*
b. Date: *7-25-23*

4. Name: *Don Duff*
a. Signature *Don Duff*
b. Date: *7-25-23*

5. Name: *Amalia A. Mendoza*
a. Signature *Amalia A. Mendoza*
b. Date: *7-25-23*

6. Name: *Floyd Bayne Jr*
a. Signature *Floyd Bayne Jr*
b. Date: *8/3/23*

7. Name: *Anker Aardalen*
a. Signature *Anker Aardalen*
b. Date: *8/03/2023*

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8. Name:

a. Signature 
b. Date: 8/13


9. Name:

a. Signature 
b. Date:

10. Name:

a. Signature 
b. Date: 8/04/23

11. Name: Brian Nelson

a. Signature 
b. Date: 8-7-23

12. Name:

a. Signature
b. Date:

13. Name:

a. Signature
b. Date:

14. Name:

a. Signature
b. Date:

15. Name:

a. Signature
b. Date:

16. Name:

a. Signature
b. Date:

Residents of Camp Integrity- PRO SE
773 Lincoln Avenue, San Rafael CA 94901
PO BOX 2217, San Rafael CA 94912-2217
CampIntegritySanRafael@yahoo.com

UNITED STATES DISTRICT COURT
DISTRICT OF NORTHERN CALIFORNIA

SHALEETA BOYD, AMALIA MENDOZA, FLOYD
BARROW, EDDY METZ, CHRISTY COOK, ANKER
AARDALEN, COURTNEY HUFF, JEFF GROVE,
DONALD HENSLEY, CAMP INTEGRITY

Case No.: Number

PROOF OF SERVICE

Plaintiff,

vs.

CITY OF SAN RAFAEL, CRISTINE ALILOVICH,
CHRIS HESS, DAVID SPILLER, AMY MILLER,
KATE COLIN, ELI HILL, MARIBETH BUSHEY,
RACHEL KERTZ.

Defendant

I Robbie Powelson, am over the age of 18 and not a party to this action.

On August 11th, around 1:00pm, I personally served a copy Plaintiffs Exparte of Application for TRO and Preliminary Injunction and Complaint for Injunctive Relief, as well as Plaintiffs Index of Exhibits, Attached Exhibits, and Motion for Accomodations on **City of San Rafael** at the City Clerks Office at 1400 Fifth Street, San Rafael CA 94901.

My address is 1001 Bridgeway #611 Sausalito CA 94965.

I swear the foregoing under penalty of perjury

/s/ Robbie Powelson

08/11/23

DR E. NAC

Residents of Camp Integrity- PRO SE
 773 Lincoln Avenue, San Rafael CA 94901
 PO BOX 2217, San Rafael CA 94912-2217
CampIntegritySanRafael@yahoo.com

UNITED STATES DISTRICT COURT
 DISTRICT OF NORTHERN CALIFORNIA

SHALEETA BOYD, AMALIA MENDOZA, FLOYD
 BARROW, EDDY METZ, CHRISTY COOK, ANKER
 AARDALEN, COURTNEY HUFF, JEFF GROVE,
 DONALD HENSLEY, CAMP INTEGRITY

Case No.: Number

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED
 COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff,

vs.

CITY OF SAN RAFAEL, CRISTINE ALILOVICH,
 CHRIS HESS, DAVID SPILLER, AMY MILLER,
 KATE COLIN, ELI HILL, MARIBETH BUSHEY,
 RACHEL KERTZ.

Defendant

PARTIES AND COUNSEL PLEASE TAKE NOTICE ATTACHED IS THE INDEX OF EXHIBITS IN SUPPORT OF TRO AND FOR THE VERIFIED COMPLAINT:

EXHIBIT A	Pages 2#	SAN RAFAEL MUNICIPAL CODE §§19.50 RATIFIED
EXHIBIT B	Pages 10#	SAN RAFAEL MUNICIPAL CODE §§ 19 ET SEQ
EXHIBIT C	Pages 32#	SAN RAFAEL MUNICIPAL CODE §1.42 ET SEQ
EXHIBIT D	Pages 48#	DECLARATION OF SHALEETA BOYD
EXHIBIT E	Pages 55#	DECLARATION OF EDDY METZ
EXHIBIT F	Pages 65#	DECLARATION OF BRIAN NELSON
EXHIBIT G	Pages 80#	DECLARATION OF FLOYD BARROW
EXHIBIT H	Pages 88 #	DECLARATION OF CHRISTYCOOK
EXHIBIT I	Pages 98#	DECLARATION OF ANKER AARDALEN
EXHIBIT J	Pages 109#	DECLARATION OF COURTNEY HUFF
EXHIBIT K	Pages 115#	DECLARATION OF DR. JEFF SCHONBERG
EXHIBIT L	Pages 123 #	DECLARATION OF ROBBIE POWELSON
EXHIBIT M	Pages 139#	DECLARATION OF DONALD HENSLEY
EXHIBIT N	Pages 142#	DECLARATION OF AMALIA MENDOZA

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 1


Verification


Under Federal Rules of Civil Procedure 11, We the undersigned, submit the Motion for TRO and Preliminary Injunction, as well as the Index of Exhibits, Notice of Motion, and Proposed Stipulation For Stay of Enforcement of SMC 19.50. We swear under penalty of perjury that all evidence submitted is true and correct to our knowledge.

Amata
reading

- 1. Name: *JH Crane*
 - a. Signature *JH Crane*
 - b. Date: *July 25, 2023*
- 2. Name: *Courtney E. Huff*
 - a. Signature *C.E.H.*
 - b. Date: *July 25, 2023*
- 3. Name: *Eddie Metz*
 - a. Signature *Eddie Metz*
 - b. Date: *7-25-23*
- 4. Name: *Don Vandy*
 - a. Signature *Don Vandy*
 - b. Date: *7-25-23*
- 5. Name: *Analisa A. Mendoza*
 - a. Signature *Analisa A. Mendoza*
 - b. Date: *7-25-23*
- 6. Name: *Floyd Barrow Jr.*
 - a. Signature *Floyd Barrow Jr.*
 - b. Date: *8/3/23*
- 7. Name: *Anker Aardalen*
 - a. Signature *Anker Aardalen*
 - b. Date: *8/03/2023*
- 8. Name: *Amata*
 - a. Signature *Amata*
 - b. Date: *8/03/2023*

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9. Name: Shaleeta Boyd
a. Signature 
b. Date: 8/4/23

10. Name: Brian Nelson
a. Signature 
b. Date: 8-7-23

11. Name:
a. Signature
b. Date:

12. Name:
a. Signature
b. Date:

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17. Name:
a. Signature
b. Date:

18. Name:

EXHIBIT A

SAN RAFAEL

MUNICIPAL CODE

§§19.50

RATIFIED

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 2

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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: Bushey, Hill, Kertz & Mayor Kate

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Llorens Gulati



KATE COLIN, Mayor

ATTEST:



LINDSAY LARA, City Clerk

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EXHIBIT B

SAN RAFAEL

MUNICIPAL CODE

**§§19 (Relevant parts
highlighted)**

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 3

Code of Ordinances



San Rafael, California - Code of Ordinances / Title 19 - PUBLIC PARKS, PROPERTY, AND OPEN SPACE



San Rafael, CA Code of Ordinances

SAN RAFAEL, CALIFORNIA - MUNICIPAL CODE modified

SUPPLEMENT HISTORY TABLE modified

THE CHARTER of the CITY OF SAN RAFAEL

- CHARTER OF THE CITY OF SAN RAFAEL
- Title 1 - GENERAL PROVISIONS
- Title 2 - ADMINISTRATION
- Title 3 - FINANCE AND TAXATION
- Title 4 - FIRE
- Title 5 - TRAFFIC REGULATIONS*
- Title 6 - ANIMALS
- Title 7 - EMERGENCY SERVICES
- Title 8 - MORALS AND CONDUCT
- Title 9 - HEALTH AND SANITATION
- Title 10 - BUSINESSES, PROFESSIONS, OCCUPATIONS, INDUSTRIES AND TRADES
- Title 11 - PUBLIC WORKS*
- Title 12 - BUILDING REGULATIONS
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- > Title 18 - PROTECTION OF FLOOD HAZARD AREAS*
- ▼ Title 19 - PUBLIC PARKS, PROPERTY, AND OPEN SPACE
 - > Chapter 19.10 - LAND AND WATER AREAS*
 - > Chapter 19.20 - PARKS AND RECREATION
 - > Chapter 19.30 - ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY
 - > Chapter 19.40 - EXPRESSIVE ACTIVITY IN PUBLIC PLACES
- > Title 20 - MOBILEHOME RENT STABILIZATION

STATUTORY REFERENCES FOR CALIFORNIA CHARTERED CITIES

ORDINANCE LIST AND DISPOSITION TABLE

CODE COMPARATIVE TABLE AND DISPOSITION LIST modified

< 18.60.030 - Conditions for variances.

Title 20 - MOBILEHOME RENT STABILIZATION >

Title 19 - PUBLIC PARKS, PROPERTY, AND OPEN SPACE^[1]

Footnotes:

-- (1) --

Editor's note— Ord. No. 1998, § 4, adopted August 16, 2021, amended the title of Title 19 to read as herein set out. The former Title 19 was formerly entitled "Open Space".

Chapter 19.10 - LAND AND WATER AREAS*

19.10.010 - Purpose.

The purpose of this title is to set forth basic policy statements which can be utilized in the maintenance, operation and management of open space areas under the jurisdiction of the city.

(Ord. 1198 § 1 (part), 1975).

19.10.020 - Definition of open space.

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Open space is any parcel or area of land or water which is essentially unimproved natural landscape area, such as rivers, streams, watershed and shoreline lands, forest and agricultural lands, ridges, hilltops, canyons and other scenic areas, acquired and/or leased by the city for open space purposes.

(Ord. 1198 § 1 (part), 1975).

19.10.030 - General management policies.

- (1) The city manager or his designated representative shall be responsible for the administration and management of open space areas and facilities under the jurisdiction of the city.
- (2) The San Rafael parks and recreation commission shall serve as an advisory body to the city council and staff on all matters concerning the management and use of open space areas.
- (3) Management of open space land and water areas acquired and/or leased by the city shall be compatible with the goals and objectives of the conservation and open space element of the San Rafael general plan.
- (4) Improvements and/or developments for public educational or recreational use shall be limited to those areas and kinds of developments which are compatible with the preservation of natural amenities.
- (5) The city shall encourage and seek agreements with other governmental jurisdictions such as the county, state, federal and other agencies for funding acquisition, development, maintenance and use of open space areas.
- (6) The city shall encourage and promote cooperation and participation of private groups, organizations and individuals in the planning, operations, management and preservation of open space lands as deemed necessary by the city.
- (7) Open space lands shall be open to the public for its use and enjoyment in accordance with the policies, rules and regulations established by the city.
- (8) The city shall, wherever possible, coordinate the use of its open space lands with other public and quasi-public lands that are contiguous to or otherwise interrelated.
- (9) Public service utilities shall be located so that minimum harm is done to the environmental quality of the area.
- (10) Reasonable precautions may be taken to reduce or eliminate existing and potential hazards, or dangerous and defective conditions which may be sources of injury to persons using open space areas and facilities.
- (11) The city may, wherever possible, consider land capability information regarding slope stability and seismic hazard of a site in determining public access and location of recreational structures and activities within designated open space areas.

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For the city, wherever possible, require access and maintenance of access to open space areas from adjacent lands proposed for development.

(Ord. 1198 § 1 (part), 1975).

19.10.040 - Use of open space lands.

- (1) Conservation and Education. Conservation and education uses shall be encouraged through individual and group participation. Conservation and education facilities, including nature trails, interpretive exhibits, day camps, nature study areas and other related facilities may be provided in areas where the effect on the natural environment will be minimal.
- (2) Recreation. Public and/or private recreational activities shall be permitted in open space areas so designated for those types of uses. Recreational use such as hiking, riding, nature study, scientific study, photography, painting, sketching, picnicking and other day-use recreational activities compatible with the use policy shall be permitted.

(Ord. 1198 § 1 (part), 1976).

19.10.050 - Maintenance, operation and control.

- (1) Public Works Department. The public works department, in cooperation with other city departments, shall administer, maintain and operate open space lands for use and enjoyment of the public, and issue permits as required.
- (2) Protection and Law Enforcement. Protection and law enforcement of open space areas and facilities shall be provided by the San Rafael police department.
- (3) Fire Protection. Fire protection and control shall be provided by the city and county fire departments. The fire departments, in cooperation with the public works department and other departments of the city, shall have the responsibility for reducing fire hazards by establishing and maintaining fire roads, trails and fuel breaks within open space areas.

(Ord. 1198 § 1 (part), 1975).

19.10.060 - Open space regulations.

- (1) Use of Open Space. No person or group of persons shall use any open space area or facility for any purposes inconsistent with this title or other city ordinances and regulations, except with written permission from the public works department.
- (2) Use of Buildings and Structures. No person shall use, occupy or otherwise remain in a building, structure or facility parking area beyond normal use hours without first having obtained a permit from the public works department.

(3)

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NO PERSON SHALL BE ALLOWED TO ENTER, ENTER OR REMAIN IN OR ON ANY CITY OPEN SPACE LANDS ANY LATER THAN ONE-HALF HOUR AFTER SUNSET OR EARLIER THAN ONE-HALF HOUR BEFORE SUNRISE WITHOUT PRIOR WRITTEN PERMISSION FROM THE PUBLIC WORKS DEPARTMENT.

- (4) **Camping.** No person or persons shall camp and stay overnight in or on any part of open space property, except with written permission from the public works department.
- (5) **Reservations.** Reservations for use of areas and facilities may be granted. Persons using a facility which is subject to reservation by permit shall have priority over those not having permits. Upon presentation of the permit, nonreservation holders must vacate the area or facility.
- (6) **Closing of Areas.** The city shall reserve the right to close certain open space areas to the public for the purpose of protecting the environmental quality of the area, during periods of extreme fire hazard, or other such purposes deemed hazardous or dangerous to persons or property.
- (7) **Prohibited Areas.** The public works department may from time to time declare and post a prohibited area for such reasons as unsafe or dangerous conditions, maintenance, construction of improvements, etc. The purpose of this is to insure the safety and health of persons, to avoid interference in development, construction or management, or to provide for security, safeguarding and preservation of open space property.
- (8) **Utilities.** No unauthorized person shall enter a fenced utility area or remove, destroy or tamper with any valve switch or control, any telephone, electrical, water or sewer line or system owned or operated by a public utility company or public agency.
- (9) **Grazing.** Grazing by domestic animals shall not be permitted on open space lands, unless it can be clearly demonstrated that such grazing will be of significant benefit to an open space area and approval is granted by the city council.
- (10) **Destruction of Property.** No person shall cut, break, injure, deface or disturb any tree, shrub, plant, rock, monument, fence, bench, table, structure, apparatus, equipment or property, or remove any flora or natural geological or paleontological features or mark or write upon any building, monument, fence, bench or other structure or carry any flowers, shrubs, or branches into or through any open space area. In addition, no person shall remove, add or introduce any vegetation, wood, soil, rock, sand or gravel from or onto any open space area without written permission from the public works department.
- (11) **Archaeological Features.** No person shall remove, injure, disfigure, deface or destroy any object of archaeological or historical interest or value.
- (12) **Fires.** No person shall start a fire for any purpose within any open space area except at places provided for such purpose unless prior special written permission has been obtained from the public works department.
- (13)

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 TO PROTECT THE HEALTH, SAFETY, AND ENVIRONMENTAL PRESERVATION, SMOKING SHALL NOT be permitted in open space areas including parking lots, at any time.

- (14) Rubbish and Litter. No person shall dump, deposit or leave any bottles, broken glass, paper, boxes, cans, rubbish, waste or garbage, or other trash in any open space area. Waste or trash from incidental day use must be deposited in the receptacles provided on open space lands. If receptacles are not available, persons must upon departing carry out all residual items, waste, or trash for subsequent disposal in appropriate waste receptacles.
- (15) Sewage or Waste Water. No person shall deposit waste water, sewage or effluent from sinks, portable toilets, holding tanks or other plumbing fixtures directly upon or into the surface of the ground or water within an open space area.
- (16) Swimming or Bathing. No person shall swim, bathe, wade, change or alter the water quality of any fountain, pond, lake, river, stream or waterway. No person or persons shall introduce to waters in an open space area substances that alter or change the natural water quality.
- (17) Wildlife. No person shall hunt, molest, harm, frighten, kill, trap, poison, chase, tease, shoot or throw rocks or missiles at any fauna in any city open space area; however, law enforcement officials or agencies directed by the city may trap, hunt or kill fauna when necessary.
- (18) Hunting and Dangerous Weapons. No person, except duly qualified and directed law enforcement officials, shall take into any open space area any firearm, air gun or gas weapon, slingshot, crossbow, bow and arrows, or other articles of like character.
- (19) Fishing. No person shall take fish within the boundaries of any designated swimming area or other such restricted area as may be designated and posted by the city. Fishing in other areas shall be in accordance with the rules and regulations established by the city; provided, however, that no person shall utilize a spear or arrow while fishing on open space lands.

Except as otherwise posted, a valid state fishing license shall be required for all persons over the age of sixteen years, and all state fish and game laws and regulations which are applicable shall apply (Fish & Game Code, Section 7145).

- (20) Release of Animals. No person or persons shall release, introduce or abandon any animal of any type to an open space area.
- (21) Dogs. No person shall bring a dog into open space areas unless the dog is on a leash of no more than six feet in length and under the immediate control of the person.
- (22) Horseback Riding, Hiking. No person shall drive, ride, lead or keep a horse or other animal in or on open space property except on such roads or trails or other areas so designated. No horse or other animal shall be hitched, leashed or tied to any tree, shrub, or structure in any

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...shall not be liable for damage thereto. No person shall use any animal in a manner that might endanger life or limb of any person or animal, and no person shall allow his animal to be left unattended or insecurely tied.

- (23) California Vehicle Code. All provisions of the California Vehicle Code shall apply in open space areas designated for vehicle use except as otherwise provided in the following:
- (a) No person shall drive a vehicle in an open space area at a speed greater than posted.
 - (b) No person shall operate a motor vehicle, other than an emergency or maintenance vehicle, on, over or across a fire trail, hiking trail or open space lands, without first securing a written permit from the police department.
 - (c) No person shall park or leave any vehicle or trailer unattended so as to impede the drivers of other vehicles.
 - (d) No person shall operate any vehicle, motorcycle or motor-driven cycle in wilful or wanton disregard for the safety of persons or property or natural amenities.
 - (e) No person shall operate any vehicle, motorcycle or motor-driven cycle in any open space area other than on roadways or drives provided for such purposes.
- (24) Behavior. No person shall indulge in any riotous, boisterous, threatening, indecent or immoral or abusive behavior, or use profane and/or vulgar language while in or on any open space area or facility.
- (25) Nudity. No person shall appear nude while in any public open space area.
- (26) Vandalism. Parents or legal guardians of minor children shall be held accountable for the acts of their children. Damage or vandalism to open space areas, structures or equipment by children shall be the responsibility of the parent or legal guardian having custody or control of the minor.
- (27) Restrooms. No person over the age of eight years shall enter or use any toilet or restroom facility designated for members of the opposite sex.
- (28) Miscellaneous Dangerous Activities. No person or persons shall engage in any of the following activities on open space lands, except in areas specifically designated and set aside from time to time by the city for such use:
- (a) Use or possess fireworks of any kind;
 - (b) Drive, chip, or in any manner play or practice golf, or hit golf balls;
 - (c) Operate self-propelled model airplanes, boats, automobiles or other model craft of any kind or description;
 - (d) Throw, release or discharge missiles, rockets or similar projectiles;
 - (e) Hang glide or parachute;
 - (f)

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19.10.070 - No person shall operate any device recklessly or negligently so as to endanger the life, limb or property of any person.

- (29) Handbills or Circulars. No person shall distribute any handbills or circulars or post, place or erect on any open space lands any bills or notices advertising any program or event not specifically related to the open space and authorized by the city.
- (30) Vendors. No vendor shall sell, expose for sale, or offer to sell on open space lands or along any street or sidewalk adjoining or approaching any open space area within two hundred feet of such facility any goods, wares or merchandise of any kind whatsoever without a use permit approved by the San Rafael planning commission.

(Ord. 1198 § 1 (part), 1975; Ord. No. 2008, § 2, 5-16-2022)

19.10.070 - Exceptions.

- (a) Where practical difficulties, unnecessary hardships or results inconsistent with the general purpose of this chapter may result from the strict application of its provisions, exceptions may be granted as provided in this section.
- (b) On appeal, the city council may grant an exception from the express terms of this chapter by making the following findings:
- (1) There are exceptional or extraordinary circumstances or conditions applicable to the request;
 - (2) The exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
 - (3) The granting of the exception will not be detrimental to the public welfare or injurious to other property or property owners in the vicinity of the property that is the subject of the exception;
 - (4) The granting of the exception will not interfere with public use of or rights to open space lands.
- (c) Any person requesting an exception shall make their request of the public works department. The public works director shall first forward the request to the San Rafael park and recreation commission. The commission shall forward its recommendation back to the director of public works who shall in turn contact the city clerk to set a public hearing before the city council in accordance with [Section 19.10.080](#) regarding appeals.

(Ord. 1486 § 1, 1984).

19.10.080 - Appeals to the city council.

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- any applicant or person aggrieved by any determination, decision, permit denial or issuance or similar actions taken by any administrative personnel under the provision of this title, may appeal the decision of the administrative personnel to the city council by filing with the city clerk a written application and notice of appeal within ten days after notification to the applicant of the action or the decision of the city's administrative personnel.
- (b) The council shall hold a public hearing on this matter. Upon receipt of the application and notice of appeal, the city clerk shall set the public hearing date on this matter, which date shall not be more than thirty days after the date on which the application and notice of appeal were filed with the city clerk. The applicant shall be notified in writing of the date of the hearing. Within a reasonable time after the council has concluded its hearing, it shall, by resolution set forth its findings and decisions on the matter. The decision of the council shall be final. The city clerk shall mail a certified copy of the decision of the city council to the applicant and/or the appellant.
 - (c) When the city council holds a public hearing under this section, the city clerk shall cause notice of the public hearing to be published at least once in a newspaper of general circulation at least ten days prior to the hearing and shall mail notice of the hearing to owners of land situated within three hundred feet of the parcel of land or, if only a small portion of the parcel is affected, the part of the parcel which is the subject of such petition. Additional notice may be given in such other manner as the city may deem desirable. The failure of any person to receive the notice required by this section, shall not invalidate the proceedings of the city council pursuant to this chapter.

(Ord. 1543 § 1, 1988; Ord. 1486 § 2, 1984).

Chapter 19.20 - PARKS AND RECREATION



19.20.010 - Purpose and intent.



The purpose and intent of this chapter is to provide rules and regulations respecting the use of city parks and recreation facilities which are necessary to protect the public health, safety and general welfare of the residents of the city and users of parks and recreation facilities, including prohibiting smoking in park and recreational facilities, and which are necessary to ensure that the parks and recreation facilities are maintained in a manner consistent with the broadest use thereof by the residents of the city. Unless otherwise stated, the provisions of this chapter apply to any city park and recreation facility.

(Ord. No. 1998 , § 4(Exh. A), 8-16-2021)

19.20.020 - Definitions.



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section:

- A. "Amplified sound" means speech, sounds, or music projected or transmitted by electronic equipment including amplifiers, loudspeakers, microphones, bull horns or similar devices or combinations of devices which are intended to increase the volume, range, distance or intensity of speech, sounds, or music and are powered by electricity, battery or combustible fuel.
- B. "Buildings" means and includes those buildings, structures, or any portion thereof, within or on any city owned land, including buildings and structures within parks and on recreation facilities. "Buildings" include "Cultural and Community Centers."
- C. "Camp" or "camping" means occupying camp facilities, using camp paraphernalia, or residing in or using a public space for living accommodation purposes, including sleeping and making preparations to sleep (including the laying down of bedding for the purpose of sleeping). "Camp" or "camping" shall also mean the conduct of these activities in a vehicle. "Camp" or "camping" shall not mean occupying camp facilities or using camp paraphernalia for temporary picnicking, recreating, or resting purposes. "Camp paraphernalia" includes, but is not limited to, tents, tarpaulins, cots, beds, mattresses, sleeping bags, hammocks, non-city designated cooking facilities and similar equipment.
- D. "City manager" means city manager or their designee. For example, in some circumstances the administrative responsibility under this chapter may be delegated to the library and recreation department or the department of public works, and in circumstances requiring enforcement, that responsibility may be delegated to the police department, fire department, parking services or code enforcement.
- E. "Cultural and community centers" means and includes city-owned properties in which classes, activities, events, meetings, seminars, banquets, weddings, fundraisers, historical tours and activities, theater, gardening, and other similar activities may take place.
- F. "Expressive activity" means conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas. Expressive activity includes, but is not limited to, public oratory and the distribution of literature.
- G. "Facility amenities" include, but are not limited to, playground and exercise equipment, park or public place benches, picnic tables, public art, public buildings, swimming pools, walls, fences, gates, trees, monuments, signs, buildings, roofs, playing surfaces, railings, backstops, parking lots, trails, or tables in a park or public place, or upon any park property.
- H.

Code of Ordinances ~~Public Property~~ means any area described in San Rafael Municipal Code [Section 19.10.020](#).

- I. "Park(s)" means and includes every park, plaza, outdoor public area, trails, open space property, greenbelt, or portion thereof together with any accompanying parking lot or staging area, which is owned, managed, or controlled by the City of San Rafael for the recreational use and/or enjoyment of the public.
- J. "Permit" means a permit issued by the City of San Rafael which permit shall contain the following information: the name of person or organization to whom the permit is issued; the name of the park and/or recreation facility and/or the identification of the activity and designated area where such activity may be conducted; the effective date(s) and times of the permitted activity; and such other administrative information as may be necessary.
- K. "Person" means an individual, association (regardless of incorporation status), organization, partnership, firm, corporation, or company.
- L. "Recreation facility" means fields, courts, pools, amphitheatres, areas specifically designed for organized activities such as, but not limited to, baseball, softball, soccer, tennis, basketball, and organized group gatherings which are owned, managed, or controlled by the City of San Rafael for the recreational use and/or enjoyment of the public.
- M. "Refuse" means any garbage, trash, bottles, cans, papers, ashes, food and vegetable material, rubbish, industrial wastes, animal waste, grass clippings, yard clippings, tree or shrub pruning or any other discarded substance, matter or thing, whether liquid or solid.
- N. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- O. "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled, and shall include any trailer in tow of any size, kind or description. For purposes of this chapter, a vehicle does not include a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, used by a sidewalk vendor engaging in sidewalk vending with a permit issued for such activity.

([Ord. No. 1998](#), § 4(Exh. A), 8-16-2021)

19.20.030 - Permit required for exclusive uses and large gatherings.

- A. A person wanting either (1) exclusive use of any park, building or portion thereof, or (2) use of a park, building or portion thereof for gatherings of twenty-five (25) or more persons, must apply for and obtain a permit for such use, activity or event, from the city manager. It is unlawful for any person to engage in any use of any park, building or portion thereof, for which a permit is required, without obtaining such a permit.
- B. Permits issued pursuant to this section shall entitle permittees, for the duration of said permit, to exclusive use of the portion of the park or building specified in said permit.

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The issuance of permits issued pursuant to this section shall be set forth by separate resolution of the city council.

- D. Nothing in this section shall require persons or entities to obtain a permit for expressive activities. Permit requirements for expressive activities are set forth in [Chapter 19.30](#) of this Code.

([Ord. No. 1998](#), § 4(Exh. A), 8-16-2021)

19.20.040 - Permit application and conditions of approval.

- A. **Permit Regulations.** All applications for permits required by the provisions of this chapter shall be made to the city manager on such forms provided and shall contain such information as the city manager shall deem appropriate. The city manager shall adopt regulations establishing permit application procedures which regulations may be amended from time to time.
- B. **Permit Fees.** Applications for permits required under the provisions of this chapter shall be accompanied by permit fees set forth by separate resolution of the city council.
- C. **Conditions of Approval.** Permits issued under the provisions of this chapter are subject to such reasonable conditions as the city manager or designee may determine necessary to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the park. These conditions may include conditions relating to waste management and restoration of the park, environmental protection, conditions to ensure safe accommodation of an event's pedestrian and vehicular traffic, and reasonable designation of alternate sites, times, dates, or modes for exercising expressive activity. Such conditions may include, but shall not be limited to, the following:
1. Limitations upon the times during which the proposed use will be permitted.
 2. Limitations upon the locations at which the use will be permitted.
 3. Limitations upon the number of people that will be permitted to participate in a use at a given location.
 4. Limitations upon the type of equipment allowed and the manner in which it is utilized, including prohibitions on amplified sound.
 5. Requirement that the applicant furnishes private patrol or security where the nature of the use will impose undue burdens on the police services of the city.
 6. Requirement that the applicant provide temporary sanitary facilities, trash containers, etc.
 7. Requirement that the applicant post fees, deposits or other security to cover extraordinary costs which may be incurred by the city as a result of the proposed use.

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19.20.050 - Criteria for issuance of permits.

The city manager shall issue a permit pursuant to the provisions of this chapter unless the city manager determines the application meets any of the following criteria:

- A. The information contained in the application, or supplemental information provided, is not complete or is materially false or misleading.
- B. The applicant has failed to submit a complete application, supply satisfactory evidence of insurance, or has not remitted the fees or deposits as required by this chapter.
- C. The park, building or portion thereof is unavailable for the period for which the permit is requested.
- D. The area proposed for the applicant's use or activity could not physically accommodate the number of participants expected to participate in a safe manner.
- E. The proposed use, activity or event is not compatible with the uses established for the requested park, building or portion thereof, in that it unreasonably interferes with use of the park by others.
- F. The proposed use has a realistic potential to create a threat to the public health, safety or welfare, or to damage public property, which may not be adequately remedied by reasonable traffic control and other safety measures. However, this provision does not authorize the denial of a permit because of a real or perceived need to protect persons engaging in expressive activity or property from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of such participants with the number of police officers available to police such proposed use.
- G. The proposed use would require the diversion of public safety or other city employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the city, or the event will adversely affect the city's ability to reasonably perform municipal functions or furnish city services.
- H. The proposed use, event or activity will have a significant adverse environmental impact.
- I. The proposed use would be in conflict with applicable provisions of any federal, state and/or local law.

The city manager's decision to issue or deny a permit pursuant to the provisions of this chapter shall be final and not subject to appeal.

(Ord. No. 1998, § 4(Exh. A), 8-16-2021)

19.20.060 - Permit holder responsibilities and obligations.

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- A. Comply with all rules and regulations and all applicable city ordinances as though the same were incorporated into the permit.
- B. Comply with all conditions imposed by the permit.
- C. Inform all attendees of the conditions of the permit and the applicable rules and regulations.

(Ord. No. 1998, § 4(Exh. A), 8-16-2021)

19.20.070 - Use of parks and buildings.

A. Rules and Regulations Regarding Use.

1. The city manager is vested with authority over and control of all parks and buildings for the purpose of causing to be corrected any condition which violates, or which would tend to cause or contribute to any violation of, the purpose and provisions of this chapter.
2. The city manager may establish reasonable rules, policies, or regulations governing the use and enjoyment of any park or building in order to maximize the use and enjoyment of the park or building by the public in addition to those contained in this chapter, and no person shall disobey or violate same.

B. Hours. Except as provided in this subsection, parks and buildings are open for public use from sunrise until sunset. Except as provided in this subsection, no person shall enter, remain in, cross upon or use, any park, building or portion thereof, between sunset and sunrise.

1. Exceptions.

- a. At any time, the city manager may exclude any person(s), whether or not such persons are permit holders, from parks, buildings, or portions thereof, where such exclusion is necessary to protect public property, the public health, safety or welfare or to preserve the public peace.
- b. Whenever any park, building or portion thereof, has been reserved for exclusive use of a permit holder, that area may be closed to all others not associated with that permit holder's exclusive use.
- c. A permit holder may use the park, building or portion thereof beyond regular hours if allowed under the permit holder's permit.
- d. Regardless of park and building hours restrictions, a person may use lighted parks, buildings, or portions thereof, under the conditions posted and as specifically designated by the city manager. No person shall use any park, building, or portion thereof, in violation of such posted hours and conditions.

C. Dogs, Pets and Other Animals.

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any person shall bring or allow a dog, pet, or other animal owned or maintained by them into any park, building or portion thereof, unless such dog or pet is on a leash and under control at all times.

2. Any person having custody or control of a dog, pet, or other animal in any park, building, or portion thereof, shall be responsible for any damage caused by such dog, pet, or other animal even if on leash and under control, including but not limited to the removal of feces.
3. The provisions of subsection A1 above shall not apply to service dogs if laws or regulations authorize service dogs in areas otherwise prohibited by this chapter.
4. No person shall abandon, hunt, capture, harm, or feed any animal in any park or building.

D. Alcohol.

1. No person shall either consume any alcoholic beverage or possess any alcoholic beverage open container in any park, building or any parking lots associated therewith.
2. A person may possess or consume alcoholic beverages in a park, building or portion thereof if the person is associated with or rightfully attending a use, activity, or event for which a permit has been issued and the permit allows alcohol use.
3. A person, whether a permit holder or not, may not furnish or sell alcoholic beverages in parks, buildings or portions thereof, unless that person:
 - a. Complies with all applicable rules and regulations of the alcohol beverage control board.
 - b. Obtains the appropriate license from the alcohol beverage control board.
 - c. Obtains a permit from the city manager permitting the use and consumption of alcoholic beverages.
4. No person, whether a permit holder or not, shall enter or remain in any park, building or portion thereof, while under the influence of an alcoholic beverage, a drug of any type or a combination thereof.

E. Vehicles in Parks.

1. Except for police officers and city employees acting in the course and scope of their employment, no person shall operate any motorized vehicle into any park except for on the streets, highways, and designated parking areas for a park.
2. All provisions of the Vehicle Code of the State of California in regard to equipment and operation of vehicles shall apply to all parks or portions thereof.
3. All persons in a park or portion thereof shall obey all police officers and city employees authorized and instructed to direct traffic in any park or portion thereof in accordance with the provisions of these regulations and such supplementary regulations as may be

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4. All persons in any park or portion thereof, shall carefully observe all traffic signs indicating speed, direction, caution, stopping or parking, and all other signs posted for proper control and to safeguard life and property.
 5. No person shall operate or use any bicycle, scooter, skateboard or roller/in-line skates, in any park except upon paved park roads, or upon pathways and other areas which have been specifically designated for such use.
 6. No person shall park any vehicle in any park except in an established or designated parking area, and such use shall be in accordance with the posted directions or with the instructions of a duly authorized attendant.
 7. A person shall be permitted to wheel or push, not ride, a bicycle by hand over any grassy area or on any paved area reserved for pedestrian use in any park.
 8. No person shall use or permit use of a skateboard or scooter, in a manner that results in two (2) or more persons being carried on such scooter or skateboard, nor use a bicycle to carry two (2) or more persons unless the bicycle is specifically designed to carry such additional persons or attached with a trailer designed to carry persons.
 9. No person shall leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
 10. No person shall leave a bicycle, scooter, skateboard or roller/in-line skates lying on the ground, sidewalk or pavement, or set against trees, or in any walkway, path or paved area designed for pedestrians.
- F. Refuse and Pollution. Pursuant to SRMC 19.12.034, no person shall throw or deposit any refuse, rubbish, garbage, debris, paper, glass, dirt, dust animal or vegetable matter, cans, sweepings or other matters of similar nature in or upon any park or building except in authorized public receptacles.

(Ord. No. 1998, § 4(Exh. A), 8-16-2021)

19.20.080 - Prohibited activities.

- A. Amplified Sound. No person shall use or create any amplified sound in any park, building or portion thereof where such noise violates the provisions of SRMC [Chapter 8.13](#).
- B. Fires.
 1. No person shall build, kindle or light a fire in any park, for any purpose, except for a fire maintained in a city-owned and designated park fire pit or park barbecue.
 2. No person shall leave an area where a fire has been kindled or maintained until the fire has been extinguished and is cold to the touch.

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... shall possess or ignite any fireworks, as defined in Health and Safety Code section 12511, in any park. This prohibition includes both "dangerous fireworks" as defined in Health and Safety Code section 12505 and "safe and sane fireworks" as defined in Health and Safety Code section 12529.

4. No person shall leave unattended any lit cigar, cigarette, match or other flammable article.

C. Camping.

1. No person shall camp, in any park, building or portion thereof, including the parking lot of any such area.

2. No person shall use or store camp facilities or camp paraphernalia in any park, building, or portion thereof, including the parking lot of any such area.

3. Nothing in this section shall be deemed to prohibit camping on all public property, including parks, when there is no alternative shelter available to the person camping; provided that the city manager may nevertheless absolutely prohibit camping at any time in one (1) or more specific parks where such prohibition is determined to be a threat to the public, health, safety, or welfare.

D. Guns and Dangerous Instruments. No person, except those persons listed in California Penal Code Section 12031(b) and 12031(c), shall have in their possession in any park, building or portion thereof, any dangerous weapon, bow and arrows, pellet or air gun, slingshot, crossbow, firearm, or destructive device as that term is defined in Section 12301 of the Penal Code.

E. Swimming and Boats. No person shall swim, wade, float, dive or otherwise enter any fountain, pond, lake, stream or other water feature, natural or man-made, in any park or building except in those areas so designated by city for such swimming, wading, floating or diving.

F. Golfing. No person in a park, building or portion thereof, shall golf, including but not limited to chipping, putting, driving or otherwise practicing golf.

G. Commercial Activities. No person shall practice, carry on, or conduct any business or profession or other commercial enterprise, nor sell or offer for sale any service, merchandise, article, or anything whatever, nor station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing, in any park, building or portion thereof, except by permit issued by the city manager and subject to all other provisions of this Code. This subsection shall not apply to city concessionaires or to persons acting under a lease, license or permit issued by the city.

H. Goods or Services—Exhibitions, Private Lessons and Classes. No person in a park, building, or portion thereof, shall: (1) sell any goods or services; (2) conduct or maintain any show, performance, concert, place of amusement or exhibition; or (3) conduct private lessons or

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any person has received the prior written permission of the city manager or other city department charged with authorizing such activities.

- I. Advertising. No person shall place, post, paste, glue or otherwise affix, distribute or erect any handbill, circular, pamphlet, sign, placard, inscription or advertisement to any tree, fence, shrub, stick or structure in any park, building, or portion thereof.
- J. Smoking. Pursuant to [section 9.04.050](#) of this Code, no person shall smoke in any park or building.
- K. Gambling. No person shall play or bet at or against any game which is played, conducted, dealt or carried on for money, chips, shell, credit, or any other representative of value, or maintain or exhibit any gambling table or other instrument of gambling or gaming, or play any game prohibited by any city ordinance or state law, in any park, building or portion thereof.
- L. Motor Driven Cycles, Model Vehicles and Planes. No person shall operate, transport or maintain any motor driven cycle, motorcycle, motorized bicycle, moped, or shared mobility device as the same are defined in the Vehicle Code or determined in the reasonable discretion of the chief of police or their designee, within any park, building, or portion thereof, except in those areas as may be specifically designated for such purpose or with the written permission of the city manager. No person shall operate any airborne, waterborne, land borne model or remote-controlled plane, any rocket or missile, or any vessel or vehicle, whether such plane, rocket, missile, drone, vessel or vehicle uses an internal combustion engine or is propelled/operated otherwise, within any park, building or portion thereof except in those areas as may be specifically designated for such purpose or with the written permission of the city manager.
- M. Special Amusement Equipment. No person shall use construct or use any special amusement equipment in any park unless authorized under terms of a permit issued by the city manager. For the purposes of this provision, "special amusement equipment" shall mean the use of any non-personal equipment that requires the use of running water, generators, or connection to park electrical utilities to use or operate, or requires the erection of any permanent or temporary structure over six (6) feet tall, and shall specifically include moon bounces or any inflatable bounce houses, climbing walls, carousels, dunk tanks, ball crawls, pony rides, slip and slides. Permits issued for such uses shall require indemnification of the city, and insurance naming the city as an additional insured.
- N. Interference with Permitted Exclusive Use. No person shall interfere with an exclusive use permitted under this chapter, and each must immediately vacate that portion of any park or building that has been reserved for exclusive use by another person upon being presented with a permit obtained pursuant to this chapter.
- O.

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any person shall dig, remove, injure, tamper with, displace or remove, any bridges, tables, benches,

fireplaces, railings, paving, water lines, other public utilities, signs, notices or placards whether

temporary or permanent, monuments, stakes, posts, or other boundary markers, or any improvements;

structures, equipment, facilities or park or building property or appurtenances whatsoever, either real or personal, in any park, building, or portion thereof.

- P. No person shall litter, soil or defile restrooms.
- Q. No person shall dig, remove or vandalize any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency, in any park.
- R. No person shall construct or erect any building, edifice, artwork or structure of any kind, permanent or temporary, or construct any public service utility, including but not limited to, any overhead wires, into, upon, through, under or across any park or building, without obtaining any and all permits required by this Code or other applicable regulations.
- S. No person shall enter, cross or remain in any lawn, grass plot, planting area, or any other area in any park, where prohibited by the city Manager, and where such prohibition is indicated by appropriate signs, fencing or cordoning, or by warning cones.
- T. No person shall damage, cut, carve, transplant, pick, remove or injure in any manner any tree, flower, bush or plant in any park or building.
- U. No person shall climb any tree or walk, stand or sit upon monuments, vases, fountains, water features, railings, fences, statues or structures of any kind not intended for such purposes.

(Ord. No. 1998, § 4(Exh. A), 8-16-2021)

19.20.090 - Park closure.

Any park, building or portion thereof may be declared closed to the public by the city manager at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or only to certain uses, as the city manager finds reasonably necessary for reasons including but not limited to: natural disaster; local, state and/or national emergencies; for the protection of property; and/or for the public health, safety or welfare. No person shall enter or remain in any park, building, or portion thereof, which has been closed and noticed as closed by appropriate signs, fencing or cordoning, or other means giving notice of park closure.

(Ord. No. 1998, § 4(Exh. A), 8-16-2021)

19.20.100 - Enforcement.

The provisions of this chapter may be enforced by any code enforcement official as defined in [Section 1.08.020](#) of this Code.

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19.20.110 - Violations of chapter.

It is unlawful for any person to violate any of the provisions of this chapter, any park rule or regulation adopted pursuant to this chapter, or to violate any of the terms and conditions of a permit issued pursuant to this chapter. Violation of this chapter and any permits issued pursuant to this chapter are deemed a public nuisance and may be subject to enforcement pursuant to Chapters [1.40](#), [1.42](#), [1.44](#) and [1.46](#) of this Code.

([Ord. No. 1998](#), § 4(Exh. A), 8-16-2021)

Chapter 19.30 - ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY**19.30.010 - Definitions.**

As used in this chapter:

- A. "Assembly" means the assembling or coming together of a number of persons for a particular purpose.
- B. "Expressive activity" shall have that meaning set forth in [Section 19.20.020](#) of this Code.
- C. "Funeral procession" means a single direct movement from a mortuary or church to the place of burial of a human body, under direction of an authorized funeral director.
- D. "March" means a planned or organized gathering of a group of persons, or which may reasonably be expected to result in the gathering of a group of persons, upon any public street, which gathering travels through, across and/or along public streets.
- E. "Parade" means a planned or organized procession of any kind.

([Ord. No. 1998](#), § 6(Exh. B), 8-16-2021)

19.30.020 - Permit required.

Except as otherwise provided in this chapter or other applicable law, an event permit shall be required to be obtained from the San Rafael Police Department for the following activities:

- A. A parade, procession, march or assembly consisting of persons, animals, vehicles, or any other combination thereof, which is to assemble or travel in unison on any public street, highway, alley, sidewalk or other city-designated public right-of-way and which either: (1)

19.40.100 - Hold harmless.

Each permittee shall execute a hold harmless agreement in a form approved by the city agreeing to defend, indemnify, and hold harmless the city against losses and liabilities incurred from the conduct of the permittee or its officers, employees, and agents.

([Ord. No. 1998](#), § 7(Exh. C), 8-16-2021)

19.40.110 - Display of expressive activity permit.

A copy of the expressive activity permit shall be displayed at the community event site and shall be exhibited upon demand of any city official.

([Ord. No. 1998](#), § 7(Exh. C), 8-16-2021)

19.40.120 - Administrative regulations.

The city manager, or designee, may adopt administrative regulations that are consistent with and that further the terms and requirements set forth within this chapter. All such administrative regulations must be in writing.

([Ord. No. 1998](#), § 7(Exh. C), 8-16-2021)

19.40.130 - Penalties.

Any person who intentionally violates any of the provisions of this chapter shall be guilty of an infraction. Violations of this chapter may be enforced pursuant to any laws and remedies available to the city including but not limited to enforcement as an infraction and/or public nuisance pursuant to chapters [1.42](#), [1.44](#) and [1.46](#) of this Code.

([Ord. No. 1998](#), § 7(Exh. C), 8-16-2021)

< [18.60.030 - Conditions for variances.](#)

[Title 20 - MOBILEHOME RENT STABILIZATION](#) >

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EXHIBIT C

SAN RAFAEL

MUNICIPAL CODE

**§§1.4 (relevant parts
highlighted)**

1.40.030 Authority to enter and inspect property.

A code enforcement official is authorized to enter upon any property or premises, and into any buildings or structures located thereon, to ascertain whether the provisions of this code or applicable state codes are being obeyed, and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples or other physical evidence. All inspections, entries, examinations and surveys shall be done in a reasonable manner. If an owner, occupant or agent refuses permission to enter or inspect, the code enforcement official may seek an administrative inspection warrant pursuant to the procedures provided in state law, including California Civil Procedure Section 1822.50 et seq., as it may be amended from time to time.

(Ord. 1706 § 4 (part), 1997).

1.40.040 - Procedure in cases involving misdemeanors.

In any case in which an arrest is made pursuant to this authority for a misdemeanor offense, the code enforcement official will, instead of taking the person arrested before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the California Penal Code, unless the arrested person demands to be taken before a magistrate; provided, that nothing herein shall prevent a peace officer from exercising his or her authority not to release an arrested person pursuant to the provisions of Penal Code Section 853.6(c) or any other provisions of law. The provisions of such Chapter 5C shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(Ord. 1706 § 4 (part), 1997).

1.40.050 - Provisions of law relating to infractions.

Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions, including but not limited to powers of peace officers, jurisdiction of courts, periods for commencing action and for bringing a case to trial and burden of proof.

(Ord. 1706 § 4 (part), 1997).

1.40.060 - False arrest or imprisonment—Use of reasonable force.

There shall be no civil liability on the part of and no cause of action shall arise against any person acting pursuant to [Section 1.40.020](#) and within the scope of his authority for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer at the time of such arrest had reasonable cause to believe was lawful. No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

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1.40.070 - Remedy for repeat zoning violations involving illegal dwelling units or illegal accessory dwelling units.

If a property owner violates the city's zoning ordinance by maintaining an illegal dwelling unit or illegal accessory dwelling unit, after having been previously required by the city to abate such a violation on the same property, the city may require, in addition to any other remedies permitted by law, the removal of such facilities as may be necessary to eliminate the existence of a kitchen in the area of the illegal dwelling unit or illegal accessory dwelling unit. Pursuant to Government Code section 65852.2 subd. (n), as that section may be amended, a property owner may request delay of enforcement of a building standard related to an accessory dwelling unit, and the city shall delay enforcement of said building standard, subject to compliance with section 17980.12 of the Health and Safety Code if:

- A. The accessory dwelling unit was built before January 1, 2020.
- B. The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(Ord. 1756 § 2, 2000).

(Ord. No. 2002, div. 1, 12-6-2021)

Chapter 1.42 - JUDICIAL REMEDIES**Sections:****1.42.010 - Criminal violations—Misdemeanors and infractions.**

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this code. A violation of any of the provisions or failing to comply with any of the requirements of this code, may be charged and prosecuted as either an infraction or misdemeanor, except where otherwise specifically provided.

Except as otherwise specifically provided, any person convicted of an infraction is punishable by a fine not exceeding five hundred dollars (\$500.00), and any person convicted of a misdemeanor is punishable by a fine not exceeding five hundred dollars (\$500.00), or imprisonment in the Marin County Jail for a period of not more than 6 months, or by both such fine and imprisonment.

Each separate day or any portion thereof on which a violation occurs, or is committed, continued, or permitted, shall be deemed to constitute a separate offense punishable as herein provided.

(Ord. 1706 § 5 (part), 1997).

1.42.020 - Civil actions—Injunction, civil penalties and administrative costs.

In addition to all other remedies, the city may bring a civil action to enforce the provisions of this code, in which a court may impose the following remedies:

- A. An injunction;
- B. Civil penalties in an amount not to exceed five hundred dollars (\$500.00) per violation for each day, payable to the city, against any person who commits, continues, operates, allows or maintains any violation of any provision of this code;
- C. Reimbursement of city administrative and abatement costs, including but not limited to investigative costs incurred in the enforcement of the provisions of this code; and
- D. Award of attorneys' fees, where the city has elected at the initiation of the action to seek the recovery of such fees, in which case the prevailing party in such action shall be entitled to an award of attorneys' fees in an amount which shall not exceed the reasonable attorneys' fees incurred by the city.

(Ord. 1706 § 5 (part), 1997).

1.42.030 - Judicial abatement.

Pursuant to California Government Code Section 38773, the city has authority to judicially abate public nuisances by filing criminal or civil actions. The city also has the authority under state law to make the expense of abatement of the nuisance a special assessment, or a lien against the property on which it is maintained and a personal obligation against the property owner, in accordance with California Government Code Section 38773.1 or 38773.5.

(Ord. 1706 § 5 (part), 1997).

1.42.040 - Treble damages for subsequent abatement judgments.

Pursuant to California Government Code Section 18773.7, upon the entry of a second or subsequent civil or criminal judgment within a two-year period that finds an owner of property responsible for a condition that may be abated in accordance with California Government Code Section 38773.5, a court may order the owner to pay treble the costs of abatement. These costs shall not include conditions abated pursuant to California Health and Safety Code Section 17980.

(Ord. 1706 § 5 (part), 1997).

Chapter 1.44 - ADMINISTRATIVE CITATIONS

Sections:

1.44.010 - Applicability.

This chapter provides for administrative citations which are in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this code or other public nuisances.

(Ord. 1706 § 6 (part), 1997).

1.44.020 - Administrative citation and pre-citation notice.

- A. Whenever a code enforcement official charged with the enforcement of any provision of this code determines that a violation of that provision has occurred, the code enforcement official shall have the authority to issue an administrative citation to any person responsible for the violation, subject to the limitations contained in subsection C of this section.
- B. Each administrative citation shall contain the following information:
1. The date of the violation;
 2. The address or a definite description of the location where the violation occurred;
 3. The section of this code violated and a description of the violation;
 4. The amount of the fine for the code violation;
 5. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
 6. An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;
 7. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
 8. The name, signature and department of the citing code enforcement official.
- C. Prior to issuing an administrative citation for a continuing violation of this code pertaining to building, plumbing, electrical or other similar structural or zoning issues, that do not create an immediate danger to health or safety, the code enforcement official shall serve a pre-citation notice on the person responsible for the violation containing the following information:
1. The date the violation was observed;
 2. The address or a definite description of the location where the violation was observed;
 3. The section of this code violated and a description of the violation;
 4. The compliance date by which the violation shall be corrected or otherwise remedied, which shall be no less than fifteen (15) days and no more than sixty (60) days from the date the pre-citation notice is given, as determined to be reasonable by the code

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5. A statement that if the violation is not corrected by the specified compliance date, that an administrative citation will be issued which imposes a fine, for the amount of which will be specified; and
6. The name, signature and department of the code enforcement official issuing the pre-citation notice.

(Ord. 1706 § 6 (part), 1997).

1.44.030 - Amount of fines.

- A. The amounts of the fines for code violations imposed pursuant to this chapter shall be set forth in a schedule of fines established by resolution of the city council.
- B. The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within thirty-six (36) months from the date of an administrative citation.
- C. The schedule of fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date.

(Ord. 1706 § 6 (part), 1997).

1.44.040 - Payment of the fine.

- A. The fine shall be paid to the city within thirty (30) days from the date of the administrative citation.
- B. Any administrative citation fine paid pursuant to subsection A of this section shall be refunded in accordance with [Section 1.44.100](#) if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.
- C. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the code violation that is the subject of the administrative citation.

(Ord. 1706 § 6 (part), 1997).

1.44.050 - Hearing request.

- A. Any recipient of an administrative citation may contest that there was a violation of this code, or that he or she is the responsible party, by completing a request for hearing form and returning it to the director of administrative services within thirty (30) days from the date of

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with an administrative citation, together with an advance deposit of the fine, except where an advance deposit hardship waiver has been obtained in accordance with procedures adopted by the director of administrative services.

- B. A request for hearing form may be obtained from the department specified on the administrative citation.
- C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.

(Ord. 1706 § 6 (part), 1997).

1.44.060 - Administrative hearing officer.

The city manager shall designate administrative hearing officers who shall conduct any hearings on contests to administrative citations. The qualifications for the administrative hearing officer shall be designated in the procedures manual.

(Ord. 1706 § 6 (part), 1997).

1.44.070 - Hearing procedure.

- A. No hearing to contest an administrative citation before an administrative hearing Officer shall be held unless the fine has been deposited in advance in accordance with [Section 1.44.050](#) or an advance deposit hardship waiver has been obtained in accordance with procedures adopted by the director of administrative services.
- B. A hearing before the administrative hearing officer shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this chapter.
- C. At the hearing, the party contesting the administrative citation, and the code enforcement official, shall be given the opportunity to testify and to present evidence concerning the administrative citation.
- D. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.
- E. The administrative citation and any report submitted by the code enforcement official to the administrative hearing officer shall constitute prima facie evidence of the respective facts contained in those documents.
- F. The administrative hearing officer may continue the hearing for good cause, and request additional information from the code enforcement official or the recipient of the administrative citation prior to issuing a written decision, provided that the hearing shall not

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(Ord. 1706 § 6 (part), 1997).

1.44.080 - Administrative hearing officer's decision.

- A. After considering all of the testimony and evidence submitted at the hearing, and within fifteen (15) days after the conclusion of the hearing, the administrative hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the administrative hearing officer shall be final. The administrative hearing officer's decision shall include a statement that the recipient of the administrative citation has appeal rights.
- B. The administrative hearing officer's decision shall include a statement that the person who received the administrative citation may contest the decision by filing a notice of appeal in accordance with the timelines and procedures specified in Government Code Section 53069.4.
- C. If the administrative hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city.
- D. If the administrative hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the administrative hearing officer shall set forth in the decision a schedule for payment of the fine, which shall not extend more than one hundred and eighty (180) days from the date of the decision.
- E. If the administrative hearing officer determines that the administrative citation should be canceled and the fine was deposited with the city, then the city shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the city's investment portfolio for the period of time that the fine amount was held by the city.
- F. The recipient of the administrative citation shall be served with a copy of the administrative hearing officer's written decision.

(Ord. 1706 § 6 (part), 1997).

1.44.090 - Late payment charges.

Any person who fails to pay to the city any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of fines.

(Ord. 1706 § 6 (part), 1997).

1.44.100 - Recovery of administrative citation fines and costs.

Code of Ordinances

... or may collect any past due administrative citation fine or late payment charge by use of all available legal means. The city also may recover its collection costs, and reasonable attorney's fees, in any civil action brought to collect administrative citation fines and late payment charges.

(Ord. 1706 § 6 (part), 1997).

1.44.110 - Right to judicial review.

Any person aggrieved by the decision of an administrative hearing officer on an administrative citation may obtain review of the decision by filing a notice of appeal with the Marin County Courts in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

(Ord. 1706 § 6 (part), 1997).

1.44.120 - Notices.

- A. The administrative citation, pre-citation notice, administrative hearing officer decision, and all notices required to be given by this chapter shall be served on the responsible party in accordance with the provisions of [Section 1.08.060](#) of this code.
- B. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

(Ord. 1706 § 6 (part), 1997).

Chapter 1.46 - ADMINISTRATIVE ORDERS

Sections:

1.46.010 - Applicability.

This chapter provides for administrative remedies, which are in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this code, including any codes adopted by reference, or other public nuisance.

(Ord. 1706 § 7 (part), 1997).

1.46.030 - Notice and order.

- A. Whenever a code enforcement official determines that a violation of this code, including any codes adopted by reference, or any other public nuisance, is occurring or exists, the official may issue a written notice and order to the person or persons responsible for the code violation or other public nuisance.
- B. A notice and order issued pursuant to this chapter shall contain the following information:

Code of Ordinances

2. A description of the violation or public nuisance, with reference to the applicable sections of this code, and the sections of any code adopted by reference;
3. The actions required to correct the violation or abate the public nuisance, and the date by which compliance shall be achieved;
4. A statement that if compliance is not achieved by the compliance date, that administrative civil penalties and administrative costs, as well as the costs of actual abatement by the city, may be imposed on the responsible person, and collected judicially, or by special assessment or tax collection, as provided in this chapter;
5. Either a copy of this chapter, or an explanation of the consequences of noncompliance with this chapter and a description of the hearing procedure and appeal process;
6. Such other information as may be required by any code adopted by reference, where applicable.

(Ord. 1706 § 7 (part), 1997).

1.46.040 - Method of service.

- A. The notice and order and any other notices required by this chapter shall be served as provided in [Section 1.08.060](#) of this code, and the requirements of any codes adopted by reference, where applicable.
- B. Where real property is involved, the notice and order and all other notices required by this code shall be mailed to the record owner of the property at the address as shown on the last equalized county assessment roll, and also shall be conspicuously posted at the property which is the subject of the notice and order.
- C. The failure of any person to receive any notice required under this chapter shall not affect the validity of any proceedings taken under this chapter.

(Ord. 1706 § 7 (part), 1997).

1.46.050 - Compliance with notice and order.

If the code enforcement official determines that all violations have been corrected or the public nuisance eliminated within the time specified in the notice and order, no further action shall be taken.

(Ord. 1706 § 7 (part), 1997).

1.46.060 - Noncompliance with notice and order—Hearing.

Code of Ordinances

If the code enforcement official determines that full compliance has not been achieved by the compliance date specified in the notice and order, the official may schedule a hearing before an administrative hearing officer.

- B. A written notice of hearing shall be served on the responsible person and, where real property is involved, on the record property owner, as provided in [Section 1.46.040](#).

(Ord. 1706 § 7 (part), 1997).

1.46.070 - Notice of hearing.

- A. Every notice of hearing on a notice and order shall contain the date, time, and place at which the hearing shall be conducted by the administrative hearing officer. The notice of hearing shall state that the purpose of the hearing will be determination on the existence of the code violations or other public nuisance described in the notice and order, on the compliance with the notice and order, and on the adoption of an administrative order, including imposition of civil penalties and administrative costs pursuant to this chapter. The notice and order shall be attached to the notice of hearing.
- B. The hearing shall be set for a date not less than fifteen (15) days nor more than sixty (60) days from the date of service of the notice of hearing unless the code enforcement official determines that the matter is urgent or that good cause exists for an extension of time.
- C. This hearing serves to provide the full opportunity of a person subject to a notice and order to object to the determination that a code violation has occurred and/or that the violation has continued to exist or that a public nuisance exists. If any person subject to a notice and order, pursuant to this chapter, fails to appear at this hearing, such non-appearance shall constitute a failure to exhaust administrative remedies.

(Ord. 1706 § 7 (part), 1997).

1.46.080 - Hearing—Findings, decision and administrative order.

- A. At the place and time set forth in the notice of hearing, the administrative hearing officer shall conduct a hearing concerning the code violation, and/or other public nuisance described in the notice and order issued pursuant to [Section 1.46.030](#).
- B. The administrative hearing officer shall consider any written or oral evidence, consistent with any rules and procedures adopted by the city manager, regarding the violation and/or public nuisance described in the notice and order, and compliance therewith, by the responsible person and/or by the record property owner.
- C. Within a reasonable time, but not more than thirty (30) days following the conclusion of the hearing, the administrative hearing officer shall issue a written decision containing factual findings and determinations referenced by supporting evidence, regarding:

Code of Ordinances

- the existence of each code violation and/or public nuisance described in the notice and order;
2. The failure of the responsible person and/or record property owner to take corrective action within the time period required in the notice and order.
- D. If the administrative hearing officer finds by a preponderance of the evidence that a code violation and/or a public nuisance has occurred, and that the code violation and/or other public nuisance was not corrected within the time period specified in the notice and order, the administrative hearing officer's decision shall include an administrative order as specified in [Section 1.46.090](#).
- E. The administrative hearing officer shall submit the decision to the city clerk, and serve a copy on the record property owner or other responsible party as provided in Code of Civil Procedure Section 1094.6(b).
- F. The administrative hearing officer's decision shall include a notice to the record property owner or other responsible party that the decision (and administrative order if applicable) is subject to judicial review according to the provisions and time limits set forth in Code of Civil Procedure Section 1094.6.

(Ord. 1706 § 7 (part), 1997).

1.46.090 - Administrative order.

If the administrative hearing officer determines that a code violation and/or other public nuisance occurred which was not corrected within the time period specified in the notice and order, the administrative hearing officer's decision shall include an administrative order which shall contain any or all of the following:

- A. An order for the record property owner or other responsible person to correct or to abate the code violation and/or other public nuisance, including a compliance date for completion of same, if compliance has not been achieved by the date of the hearing;
- B. An order authorizing the code enforcement official to correct or to abate the code violation or other public nuisance by use of city employees or a city contractor, and to enter upon the private property where such violation or other public nuisance exists, for purposes of correcting and abating same, if the record property owner or other responsible person fails to do so by the compliance date;
- C. Administrative civil penalties as provided in [Section 1.46.100](#);
- D. Administrative costs as provided in [Section 1.46.110](#).

(Ord. 1706 § 7 (part), 1997).

1.46.100 - Administrative civil penalties.

Code of Ordinances

- The administrative hearing officer may impose administrative civil penalties for the violation of any provision of this code, or the existence of a public nuisance, in an amount not to exceed a maximum of five hundred dollars (\$500.00) per day for each ongoing code violation, or other public nuisance, except that the total administrative penalty shall not exceed one hundred thousand dollars (\$100,000.00), exclusive of administrative costs, interest and restitution for compliance re-inspections, for any related series of violations or conditions constituting a public nuisance.
- B. In determining the amount of the administrative penalty, the administrative hearing officer may take any or all of the following factors into consideration:
1. The duration of the code violation and/or the public nuisance;
 2. The frequency, recurrence and number of code violations, and/or public nuisance conditions related or unrelated, by the same record property owner or other responsible person;
 3. The seriousness of the violation;
 4. The good faith efforts of the record property owner or other responsible person to come into compliance;
 5. The economic impact of the penalty on the record property owner or other responsible person;
 6. The impact of the code violation on the community and/or general public;
 7. Such other factors as justice may require.
- C. Administrative civil penalties imposed by the administrative hearing officer shall accrue from the date specified in the notice and order and shall cease to accrue on the date the violation and/or other public nuisance is corrected as determined by the code enforcement official or the administrative hearing officer.
- D. The administrative hearing officer may suspend the imposition of applicable administrative civil penalties for any period of time during which:
1. The record property owner or other responsible person has filed for necessary permits;
 2. Such permits are required to achieve compliance;
 3. Such permit applications are actively pending before the city, state or other appropriate governmental agency.
- E. Administrative civil penalties assessed by the administrative hearing officer shall be due by the date specified in the administrative order, which shall be no later than ninety (90) days from the date of such administrative order.
- F.

Code of Ordinances

Administrative civil penalties assessed by the administrative hearing officer are a debt owed to the city and, in addition to all other means of enforcement, if the code violation and/or other public nuisance is located on real property, may be enforced by means of a lien against the real property on which the violation occurred.

- G. If the code violation or other public nuisance is not corrected as specified in the administrative hearing officer's administrative order, administrative penalties shall continue to accrue on a daily basis until the violation and/or other public nuisance is corrected, subject to the maximum amount set forth in subsection A of this section.

(Ord. 1706 § 7 (part), 1997).

1.46.110 - Administrative costs.

- A. The administrative hearing officer shall assess administrative costs against the record property owner or other responsible person when such officer finds that a violation and/or public nuisance has occurred and that compliance has not been achieved by the compliance date specified in the notice and order.
- B. The administrative costs may include any and all costs incurred by the city in connection with the matter before the administrative hearing officer including, but not limited to, the costs for the administrative hearing officer's services, costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, costs for all re-inspections necessary to enforce the notice and order, and the costs of actual abatement if undertaken by the city.
- C. Administrative costs assessed by the administrative hearing officer shall be due by the date specified in the administrative order, which shall be no later than ninety (90) days from the date of such administrative order.

(Ord. 1706 § 7 (part), 1997).

1.46.120 - Supplemental hearing, decision and administrative order.

Following issuance of an administrative hearing officer's decision and administrative order, the code enforcement official may schedule a supplemental hearing before the same or another administrative hearing officer for the purpose of obtaining a supplemental decision and administrative order, which may include the confirmation or imposition of administrative civil penalties or administrative costs applicable to continuation of the code violation or public nuisance following the date of the original hearing with respect to a notice and order. The supplemental hearing date, notice of supplemental hearing, supplemental hearing procedures, and the contents, submission and service of the supplemental decision and administrative order shall be consistent with the provisions of Sections [1.46.040](#), [1.46.060](#), [1.46.070](#), [1.46.080](#), [1.46.090](#), [1.46.100](#) and [1.46.110](#).

(Ord. 1706 § 7 (part), 1997).

1.46.130 - Failure to comply with administrative order.

Failure to pay the assessed administrative civil penalties and administrative costs specified in the administrative order of the hearing officer may be enforced as:

1. A personal obligation of the violator; and/or
2. If the violation is in connection with real property, a code enforcement assessment lien upon the real property. The code enforcement assessment lien shall remain in effect until all of the administrative civil penalties, and administrative costs are paid in full.

(Ord. 1706 § 7 (part), 1997).

1.46.140 - Right of judicial review.

Any decision and administrative order or supplemental decision and administrative order of an administrative hearing officer shall be subject to judicial review in the Marin County courts by filing with the court a petition for writ of mandate pursuant to the provisions and time limits set in Section 1094.6 of the Code of Civil Procedure.

(Ord. 1706 § 7 (part), 1997).

1.46.150 - Recovery of administrative civil penalties and administrative costs.

The city may collect the assessed administrative civil penalties and administrative costs by use of all available means, including by civil action in which the city may recover its reasonable attorneys' fees as provided in [Section 1.42.020\(D\)](#), and by recordation of a code enforcement assessment lien and tax collection pursuant to [Section 1.46.160](#).

(Ord. 1706 § 7 (part), 1997).

1.46.160 - Code enforcement assessment lien—Tax collection.

- A. Whenever any administrative civil penalties and/or administrative costs imposed in an administrative hearing officer's decision and administrative order or supplemental decision and administrative order have not been paid in full when due, and a timely writ of mandate has not been filed or has been filed but not been successful, the amounts owing may constitute a code enforcement assessment lien and special assessment against the real property on which the code violation or other public nuisance occurred.
- B. The city clerk may cause to be recorded in the county recorder's office a notice of code enforcement assessment lien against the subject real property. Such notice of code enforcement assessment lien shall specify the amount of the lien, the name of the city of San Rafael on whose behalf the lien is imposed, the street address, legal description, and

Code of Ordinances

assessment shall include the parcel number of the property on which the lien is imposed, the name and address of the record property owner, and the date of the administrative hearing officer's decision and administrative order to which the lien relates. Upon recordation of such code enforcement assessment lien, it shall attach as a lien against such real property, and shall have the same effect and priority as recordation of an abstract of judgment.

- C. In addition to the foregoing, the city clerk may file a certified copy of the notice of code enforcement assessment lien in the office of the county treasurer-tax collector, whereupon it shall be the duty of the county treasurer-tax collector to add the unpaid amount as a special assessment to the next regular tax bills levied against the property for municipal purposes. Thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.
- D. Upon receiving a report from the director of administrative services that payment in full has been received by the city of the amount specified in the notice of code enforcement assessment lien, the city clerk shall either record a notice of satisfaction of the code enforcement assessment lien with the county recorder, and file a certified copy of same with the county treasurer-tax collector, or provide the property owner or financial institution with a notice of satisfaction so that they may record it with the office of county recorder and file it with the county treasurer-tax collector. Recordation of such notice of satisfaction shall cancel the city's code enforcement lien and assessment against the property.

(Ord. 1706 § 7 (part), 1997).

< Section 3. - ACTION FINAL

Title 2 - ADMINISTRATION >

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EXHIBIT A

DECLARATION OF

SHALEETA BOYD

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 5

1 Residents of Camp Integrity- PRO SE
773 Lincoln Avenue, San Rafael CA 94901
2 PO BOX 2217, San Rafael CA 94912-2217
3 CampIntegritySanRafael@yahoo.com

4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NORTHERN CALIFORNIA
6

7 SHALEETA BOYD, ET AL
8 Plaintiff,

Case No.: Number

9 vs.

DECLARATION OF SHALEETA BOYD IN
SUPPORT OF TRO

10 CITY OF SAN RAFAEL ET AL

11 Defendant

- 12 1. I Shaleeta Boyd have full knowledge of this declaration and if called to
13 testify could and would do so competently.
- 14 2. I am native of Marin County, I graduated from Novato Highschool in 2008. I
15 was working in Job Corps. I went into culinary, that's my trade.
- 16 3. I am about to start working for Door Dash once I get a car loaned to me for
17 income.
- 18 4. Back in February of 2023, I lived at the Golden Gate Village in Marin City
19 with my kids. I was co-leasing an apartment their with my baby's father.
- 20 5. I was victim of domestic violence.
- 21 6. I was told by Child Protective Services I had to leave my baby's father or I
22 would lose my kids.
- 23
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DECLARATION OF SHALEETA BOYD IN SUPPORT OF TRO - 1

- 1 7. I alerted the Marin Housing Authority multiple times trying get new housing
2 so I could leave him. I asked that they help me get a separate apartment to
3 get my kids out of the situation. They refused help me and my kids.
4
- 5 8. Ultimately, here was a Child Protective Services situation that resulted in my
6 kids being taken.
7
- 8 9. I had been staying with at Golden Gate Village with my kids and my baby's
9 father. Because he was head of household, he was able to kick me out
10
- 11 10. I was told by a case manager to send a letter to Marin Housing Authority
12 about the situation with my baby's father. I sent a letter to Marin Housing
13 Authority explaining the situation with my baby father and co-leaser. After I
14 sent the letter, they said the letter waived my lease and I was evicted without
15 any court process and they changed the locks on me. My baby father kept
16 the apartment, because he was listed as "head of household" on the lease.
17
- 18 11. My baby's father would not let me get any of possessions from our
19 apartment, and through it all in the garbage.
20
- 21 22. Right now I am working with the Ritter Center to get housing. I have to
22 work. I can't get my kids back until get housing. I am trying my hardest to
23 get housing. I have been applying for places. Because I don't have an
24 income. I can get a job, but I don't know where I'm going to be. Its been
25 pretty rough. I have no place to live and no one to put me up.
26
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DECLARATION OF SHALEETA BOYD IN SUPPORT OF TRO - 2

1 13.I have not been notified in anyway about the new camping regulations being
2 implemented by the City on August 16th.

3
4 14.I have not seen any weekly service support pop up at Camp Integrity and the
5 Mahone Creek Path.

6
7 15.I've had two tents stolen when I have camped alone. One time, it was right
8 across the road from Camp Integrity on the other side of the Mahone Creek
9 Path and Lincoln Avenue. When I set up another tent, it was also taken.

10
11 16.I was provided no notice about the tent. I believe the tent was taken by San
12 Rafael Police, because the tent and the campsite was totally cleared out as
13 though a crew had a gone through and pick ed up everything and. They took
14 my clothes, my purse, - everything. They took my kids clothes and food toys
15 that I was keeping for my children.

16
17
18 17.I had to sleep in the cold on those nights, with nothing but a jacked. I stayed
19 up all night because I could not sleep it was so cold.

20
21 18.After my tents were stolen by twice, I moved deeper into Camp Integrity.
22 Since then, none of my tents. Nothing had been stolen from me while in the
23 camp either by the police or anyone else.

24
25 19.I've turned in an application for an apartment with the help of a third party,
26 and I am hoping that my application will be accepted so I can my housing
27 and get my kids back.

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DECLARATION OF SHALEETA BOYD IN SUPPORT OF TRO - 3

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20. I suffer from clinical depression. It causes a physiological response in my body where my body is slowed, and its difficult to go places and do anything. Its just hard when you go no roof, no clothes. I got no shoes, I just have sandals.

21. I need housing now. CPS wont release my kids into a shelter. Around September 5th if I don't have housing, I may face termination of my parental rights. That would be devastating.

22. Attached in Exhibit A is a true and correct copy of the request for housing I sent to the City of San Rafael

I swear the foregoing under penalty of perjury

/s/ Shaleeta Boyd



08/11/23

DECLARATION OF SHALEETA BOYD IN SUPPORT OF TRO - 4

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EXHIBIT A

DECLARATION OF SHALEETA BOYD

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 6

CITY OF SAN RAFAEL

REQUEST FOR SHELTER PLACEMENT/ACCOMMODATION REQUEST

Date: July _____, 2023

NAME: SHALEETA BOYD Age: _____

SINGLE, COUPLE, OTHER _____ GENDER _____

THIS REQUEST IS MADE TO

City of San Rafael, City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srapd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

VEHICLE (circle one): Yes/No PET: YES/NO Number of Pets: _____

Best way to contact me (email, camp, cell etc.) _____

Backup Contact: CampIntegritySanRafael@Yahoo.com

Adequate Shelter For Me: (Check each that apply)

_____ Johnathan's Place, Congregate Shelter

_____ Johnathan's Place, Single Unit

_____ New Beginnings Center

Permanent Housing I Have Income / I Don't Have Income

_____ Motel or other single unit.

_____ Helen Vine Recovery Center or Other Medical Facility _____

_____ Other: _____

_____ **Request for Accommodation:** I want to request a reasonable accommodation. Example- I need a single unit sleeping accommodation because I have PTSD and can't sleep in congregate shelter.

I would like housing that would be excessable to me and my 2 kids

Shaleeta Boyd
Signature

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EXHIBIT E

DECLARATION OF

EDDY METZ

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 9

1 Residents of Camp Integrity- PRO SE
773 Lincoln Avenue, San Rafael CA 94901
2 PO BOX 2217, San Rafael CA 94912-2217
CampIntegritySanRafael@yahoo.com
3

4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NORTHERN CALIFORNIA
6

7 SHALEETA BOYD, ET AL
8 Plaintiff,

Case No.: Number

9 vs.

DECLARATION OF EDDY METZ IN SUPPORT OF
TRO

10 CITY OF SAN RAFAEL ET AL

11 Defendant

- 12
- 13
- 14 1. I Eddy Metz, do declare the foregoing to be true and correct. I have full knowledge and if
15 called to testify could and would do so competently.
- 16 2. I am 64 years old.
- 17 3. I am a positive, hardworking man with integrity.
- 18 4. I have lived in San Rafael since 2015. Around 2018 I lost my housing and I have been
19 living outside ever, and have been in and out sober living environments and other
20 programs between living on the streets. I do not have any alternative shelter.
- 21
- 22 5. I set up a tent on Camp Integrity aka Mahone Creek Path because I was evicted from Albert
23 Park in March then I went to the Palm Trees across from tennis courts until the San
24 Rafael Police and evicted me, after which I came here.
- 25 6. I use a walker an to get around because I have torn meniscus in my left knee and I can't
26 walk well, and when they evicted from around the tennis courts I had to move all of my
27 possessions which aggravated my knee.
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PLEADING TITLE - 1

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7. No one has informed me what's going on with the ordinance or where it would be legal to camp.

8. I need to have some shade or a tent during the heat.

9. I rely heavily on my neighbors who live at the camp to bring water and food to me because it its so hard to make it anywhere. You have to go way out of your way to get water and food, which is extremely difficult with my knee.

10. My campmate Ruan, Anthony, and others bring me water and food just about everyday.

11. Attached in Exhibit A is a picture of me with one of my helpers. She brought me some soda and ice cream. I am left sitting in my walker. This picture was taken on July 25th 2023

12. SMC 19.50 will negatively effect my ability to get water, access bathrooms, have access to guardians because it spaces

13. I do not understand where the City of San Rafael wants us to camp. No one from the city has outreached about the new rules or provided a weekly service popup

14. Attached in Exhibit B is my request for housing sent to the City of San Rafael

15. Attached in Exhibit C is my request for disability accomodations sent to the City of San Rafael

I swear the foregoing under penalty of perjury

/s/ Eddy Metz



08/08/23

PLEADING TITLE - 2

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EXHIBIT A
DECLARATION OF EDDY METZ

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 10



REQUEST FOR REASONABLE ACCOMMODATION

CITY OF SAN RAFAEL

Date: 08/07/23

Person making request: EDDY MEJZ DOB: _____

This request is being made to

City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@sprd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

I have a disability. My relevant disabilities are:

TORN MENISCUS
DISLOCATED SHOULDER

The accommodation I am requesting is:

HANDICAPPED ACCESSIBLE, SINGLE UNIT

IF NO HOUSING PROVIDED I NEED TO
BE ABLE TO CAMP NEAR WATER, SHADE, BATHROOM
AND THE PEOPLE I RELY ON FOR HELP

How this accommodation is related to my disability (Example: I need x because I have mobility issues and x causes my symptoms to get worse):

I NEED HELP GETTING FOOD, WATER

I need accommodation that are related to other needs (Example: I need to camp close to others because I am being stalked)

SAN RAFAEL TOOK MY PROPERTY
AT FACKIRE, I NEED IT BACK MY WALKER
BEDDING, TWO UMBRELLAS, AND A WAGON
I USE TO TRANSPORT. THEY TOOK THIS
AROUND AUGUST 1ST WITH NO NOTICE.

How to contact me about this request: Phone/email c/o

Email: CampIntegritySanRafael@Yahoo.com

You are directed to speak to my advocate(s): ROBBIE POWELSON

Other Contact Info: 

Signature _____ 08/07/23

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EXHIBIT B

DECLARATION OF EDDY METZ

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 11

CITY OF SAN RAFAEL

REQUEST FOR SHELTER PLACEMENT/ACCOMMODATION REQUEST

^{AUGUST}
Date: ~~July~~ _____, 2023

NAME: EDDY METZ Age: 64

SINGLE, COUPLE, OTHER _____ GENDER M

THIS REQUEST IS MADE TO

City of San Rafael, City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srpd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

VEHICLE (circle one): Yes/NO PET: YES/NO Number of Pets: _____

Best way to contact me (email, camp, cell etc.) EMAIL

Backup Contact: CampIntegritySanRafael@Yahoo.com

Adequate Shelter For Me: (Check each that apply)

- _____ Johnathan's Place, Congregate Shelter
- _____ Johnathan's Place, Single Unit
- _____ New Beginnings Center
- Permanent Housing – I Have Income/ I Don't Have Income
- Motel or other single unit.
- _____ Helen Vine Recovery Center or Other Medical Facility _____
- _____ Other: _____

_____ Request for Accommodation: I want to request a reasonable accommodation. Example- I need a single unit sleeping accommodation because I have PTSD and can't sleep in congregate shelter.

HADICAPPED ACCESSIBLE

Signature EIM

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EXHIBIT C

DECLARATION OF EDDY METZ

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 12

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EXHIBIT F

DECLARATION OF

BRIAN NELSON

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 13

1 Residents of Camp Integrity- PRO SE
2 773 Lincoln Avenue, San Rafael CA 94901
3 PO BOX 2217, San Rafael CA 94912-2217
4 CampIntegritySanRafael@yahoo.com

5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NORTHERN CALIFORNIA

7 SHALEETA BOYD, ET AL

Case No.: Number

8 Plaintiff,

9 vs.

DECLARATION OF BRIAN NELSON IN SUPPORT
OF TRO AND PRELIMINARY INJUNCTION

10 CITY OF SAN RAFAEL ET AL

11 Defendant

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1. I Brian Nelson, do declare the following under penalty of perjury.
2. I have full knowledge what is in this declaration and if called to testify could and would do so competently.
3. I am 51 years old. I graduated from Highschool and 1990, and have an associates from Butte College in 1994 and I transferred into Chico College and graduated with my Bachelors in organizational communication, focusing on chain of command and human resources in 1997.

DECLARATION OF BRIAN NELSON IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 1

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4. In addition to that, I am a trained veterinary tech and veterinary pharmacist with over 10 years of work experience, and three years as optician fitting glasses, lenses, and contacts.
5. I have been in and out of sober living environments “SLE” since around 2007, and in between my times intermitted live on the streets. I currently live on the snake path and have no other housing.
6. On February 16th of 2023, I was stabbed 16 times in San Francisco in attempted murder and robbery. I was attacked by stranger who I had never met before.
7. I am still recovering from. I have a defensive wound on my hand that cut my tendons. I have had surgery on my hand. that makes my left hand. I can’t work because I can’t type anymore, I cant carry things,
8. Its hard to make it to appointments because I am stuck at the camp all the time. I have had some greater freedom to leave in my camp,

DECLARATION OF BRIAN NELSON IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 2

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because I can leave my campsite and have my friends watch out for my stuff and make sure my worldly possessions are not stolen.

9. Because of my training as veterinary technician, I have administered thousands of medical shots using hypodermic needles. Because of my training, I am the only person in this camp who is comfortable administering adrenaline during drug overdoses. I was able to administer adrenaline.

10. About a month ago, I saved a mans life who was overdosing from fentanyl in the camp by administering adrenaline.

11. I have also revived three different people using Narcan three different times since I have lived here. I keep a Narcan bag hanging from a piece of yarn in front of my camp for easy access [see exhibit]

12. I clean my campsite five times a day. I use a trash grabber to pick everything up around my campsite and I use yard to distinguish my camping area to prevent people from dumping

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trash. I regularly fill up trash bags that the City of San Rafael and place them in a pile.

13. The City of San Rafael has provided no education or outreach about the new rules in SMC §§19.50. I have not seen a weekly service pop up center.

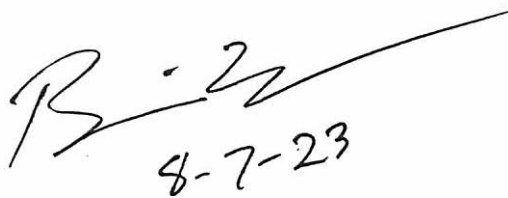
14. Attached in Exhibit A is my request for housing sent to the City of San Rafael

15. Attached in Exhibit is my request for disability accommodations sent to the City of San Rafael

16. ON AUGUST 7TH, THE CITY POSTED THE FLYER IN EXHIBIT C

I swear the foregoing under penalty of perjury

/s/ Brian Nelson



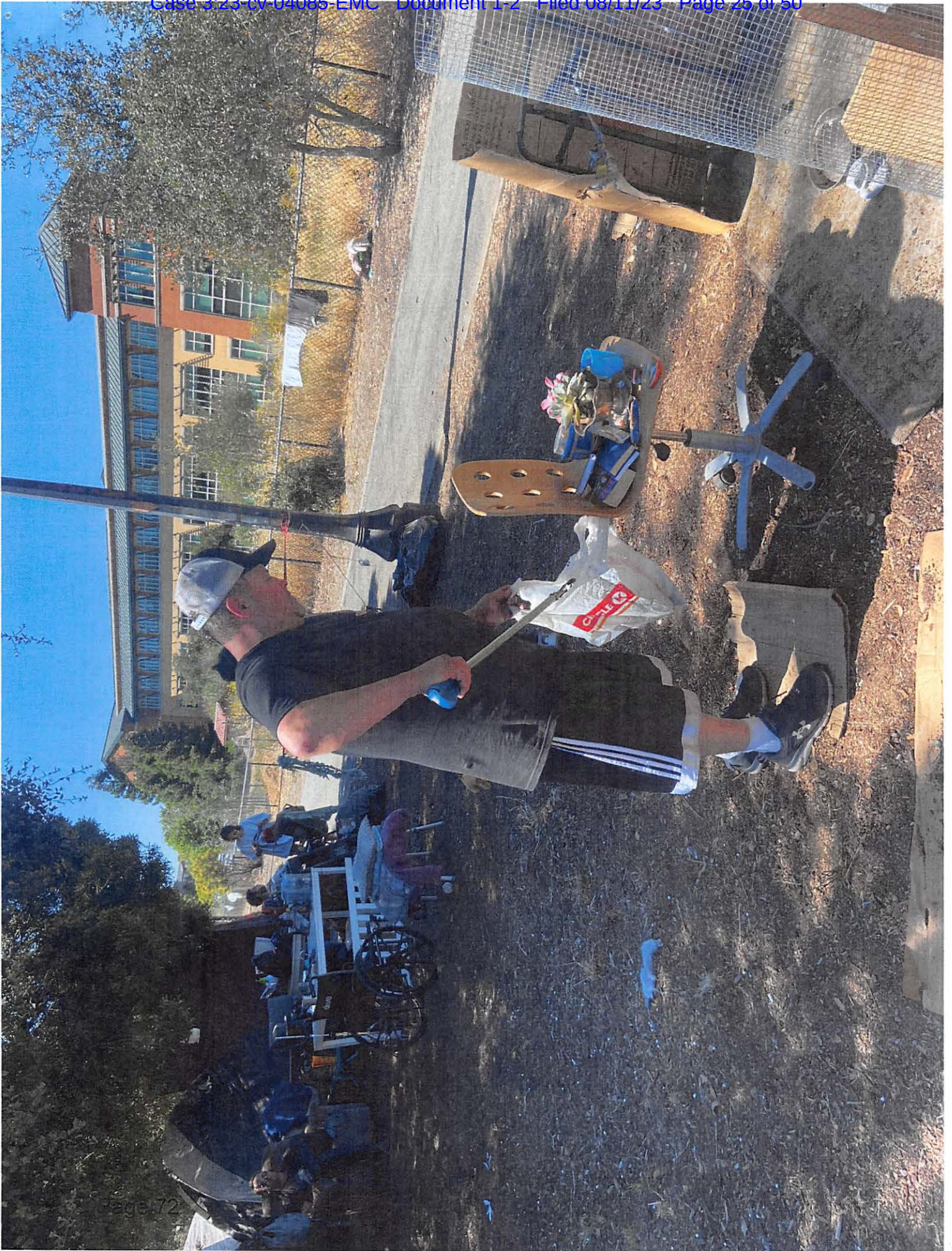
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EXHIBIT A

DECLARATION OF BRIAN NELSON

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 14





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EXHIBIT C

DECLARATION OF BRIAN NELSON

REQUEST FOR REASONABLE ACCOMMODATION

CITY OF SAN RAFAEL

Date: 08/08/23

Person making request: BRIAN NELSON DOB: 4-6-72

This request is being made to

City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

I have a disability. My relevant disabilities are:

PTSD, Diabetes, Sleep Apnea, Alcohol + Drug addiction

The accommodation I am requesting is:

Single Resident Housing or a safe place with shade, water and electricity.

How this accommodation is related to my disability (Example: I need x because I have mobility issues and x causes my symptoms to get worse):

I Need Power for my Sleep Apnea machine. I am Diagnosed with Severe Sleep Apnea. PTSD around groups of unfamiliar people

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EXHIBIT C

DECLARATION OF BRIAN NELSON

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 15

CITY OF SAN RAFAEL

REQUEST FOR SHELTER PLACEMENT/ACCOMMODATION REQUEST

Date: ~~July~~ ^{August} 7th, 2023

NAME: BRIAN NELSON Age: 51

(SINGLE), COUPLE, OTHER _____ GENDER Male

THIS REQUEST IS MADE TO

City of San Rafael, City Manager cristine.alliovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srpd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

VEHICLE (circle one): Yes No PET: YES NO Number of Pets: _____

Best way to contact me (email, camp, cell etc.) cell 415-879-0766

Backup Contact: CampIntegritySanRafael@Yahoo.com

Adequate Shelter For Me: (Check each that apply)

- _____ Johnathan's Place, Congregate Shelter
- _____ Johnathan's Place, Single Unit
- _____ New Beginnings Center
- Permanent Housing – I Have Income/ I Don't Have Income
- _____ Motel or other single unit.
- _____ Helen Vine Recovery Center or Other Medical Facility _____
- _____ Other: _____

_____ **Request for Accommodation:** I want to request a reasonable accommodation. Example- I need a single unit sleeping accommodation because I have PTSD and can't sleep in congregate shelter.

Some one who I have Never met Stabbed me 16 Times in San Francisco on 2-19-23. This person is charged with Attempted murder. I have PTSD in a group housing situation because of this event

Brian Nelson
Signature

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EXHIBIT D

DECLARATION OF BRIAN NELSON

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 15



August 2023 City of San Rafael Updated Camping Regulations

Beginning August 16, 2023, the City of San Rafael's new camping regulations, under Chapter 19.50 of the San Rafael Municipal Code, will go into effect.
<https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2023/07/6.a-Ordinance-Regulating-Camping-on-Public-Property.pdf>



Camping remains prohibited at:

- Open Spaces
- Albert Park
- Boyd Park
- City Parking Garages

*Current Temporary Closure at
Menzies lot and Falkirk
Cultural Center*

With questions, contact:

**Lynn Murphy,
San Rafael Police
Department
415-485-3489**

**Chris Hess,
Assistant Director
Community Development
415-458-5017**

Camping is not prohibited at other public properties if you have no alternative shelter available.

NEW Defined Limits of Campsite Size:

Campsite for
One Person
Max 10 ft x 10 ft
(100 square feet)

Campsite for
Two or More
People
Max 10 ft x 20 ft
(200 square feet)

- Campsites must be at least 200 ft apart.
- Campsites must be at least 100 ft from a playground.
- Campsites must be at least 10 ft from public utility infrastructure such as PG&E utility boxes.

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EXHIBIT G

DECLARATION OF

FLOYD BARROW

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 17

1 Residents of Camp Integrity- PRO SE
773 Lincoln Avenue, San Rafael CA 94901
2 PO BOX 2217, San Rafael CA 94912-2217
CampIntegritySanRafael@yahoo.com
3

4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NORTHERN CALIFORNIA
6

7 SHALEETA BOYD, ET AL
8 Plaintiff,

Case No.: Number

9 vs.

DECLARATION OF FLOYD BARROW IN SUPPORT
OF TRO AND PRELIMINARY INJUNCTION

10 CITY OF SAN RAFAEL ET AL

11 Defendant

- 14 1. I Floyd Barrow, declare the following under penalty of perjury
- 15 2. I am 49 years old. I am United States Navy Veteran and served four years in
16 the Atlantic Ocean, Persian Gulf, New York, Caribbean and other places.
- 17 3. I live here at Camp Integrity, I take care of the garbage everyday. I keep
18 everything proper. I sweep, and carry the trash away from people are living
19 to keep things orderly.
- 20 4. I also keep the bathrooms clean that we have been paying for the past few
21 moths. Attached in Exhibit A
- 22 5. I have been living at Camp Integrity in a tent since everyone was evicted
23 from Albert Park. I have been having housing issues for the last few years.

24 I have no other housing available to me. A lot of my family has passed
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DECLARATION OF FLOYD BARROW IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 1

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away. My remaining family who live nearby live in Section 8 and can't allow me to live with them as a condition of their Section 8 voucher.

6. On a regular basis, I got Saint Vincent de Paula for breakfast and lunch. I get to-go bags of food and water. I witness people eating food from Saint Vincent de Paul. Sometimes I consume my meal outside of Saint Vincent de Paul, like other people do.

7. Around 2015 I spent several at the New Beginnings Center, a shelter in Novato run by homeward bound. I was working two jobs at the time. I stayed around fourteen months. They never offered me housing.

8. After that I went to Center Point Drug Treatment. I spent 8 months in the sober living home. After that I was able to get an apartment while I was working.

9. The last time I was in shelter was in November of 2021. I was in Johnathan's Place. There was an incident that resulted in me being permanently banned me for life from their shelters. I did not have an opportunity to contest the adverse action taken against me by the staff adverse action.

10. I have arthritis in my left ankle that can flare. I have a sciatic nerve in my back that hurts quite a bit.

1 11. I'm using this time at Camp Integrity to finding my next steps in life. I am
2 trying to find next steps and find a career that I haven't had before. I am
3
4 trying to find a way to do what I love where the money will follow.

5 12. I have to stay in San Rafael, because all of my services are around here like
6
7 Ritter Center, Saint Vincent de Pauls, that are close to the downtown so I
8
9 can showers, food, water etcetera.

10 13. The City of San Rafael has provided no education about the new rules in
11
12 SMC §§19.50, and there has been no weekly service pop up center since the
13
14 ordinance was passed.

15 14. Attached in Exhibit B is a request for shelter that I submitted to the City of
16
17 San Rafael.

18 I swear the foregoing under Penalty of Perjury

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21 /s/ Floyd Barrow



08/03/23

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DECLARATION OF FLOYD BARROW IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 3

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DECLARATION OF FLOYD BARROW

Exhibit A

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 18



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EXHIBIT B

DECLARATION OF FLOYD BARROW

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 19

CITY OF SAN RAFAEL

REQUEST FOR SHELTER PLACEMENT/ACCOMMODATION REQUEST

Date: July _____, 2023

NAME: Floyd Barrow Jr Age: 49

SINGLE, COUPLE, OTHER _____ GENDER M

THIS REQUEST IS MADE TO

City of San Rafael, City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srpd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

VEHICLE (circle one): Yes/No PET: YES/NO Number of Pets: _____

Best way to contact me (email, camp, cell etc.) _____

Backup Contact: CampIntegritySanRafael@Yahoo.com

Adequate Shelter For Me: (Check each that apply)

- Johnathan's Place, Congregate Shelter
- Johnathan's Place, Single Unit
- New Beginnings Center
- Permanent Housing – I Have Income/ I Don't Have Income
- _____ Motel or other single unit.
- _____ Helen Vine Recovery Center or Other Medical Facility _____
- _____ Other: _____

_____ **Request for Accommodation:** I want to request a reasonable accommodation. Example- I need a single unit sleeping accommodation because I have PTSD and can't sleep in congregate shelter.

Floyd Barrow Jr.
Signature

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EXHIBIT H

DECLARATION OF

CHRISTY COOK

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 21

1 Residents of Camp Integrity- PRO SE
2 773 Lincoln Avenue, San Rafael CA 94901
3 PO BOX 2217, San Rafael CA 94912-2217
4 CampIntegritySanRafael@yahoo.com

5 UNITED STATES COURT
6 DISTRICT OF NORTHERN CALIFORNIA

7 SHALEETA BOYD ET AL,
8 Plaintiff,

9 vs.

10 CITY OF SAN RAFAEL,
11 Defendant

Case No.: Number

DECLARATION OF CHRISTIE MARIE COOK IN
SUPPORT OF TRO

- 12 1. Christie Marie Cook do declare, the foregoing under penalty of perjury. I
13 have full knowledge of what is in this declaration, and if called to testify
14 could and would do so..
- 15 2. I am 42 years old. I grew up in Marin County. I went to San Rafael High
16 School. I like nature and walking on Mount Tamalpais. I love dogs and cats,
17 and I've always wanted to be a veterinarian.
- 18 3. I went to Empire State College to be trained as a front and back end medical
19 assistant.
- 20 4. I've been trying to get housing. I have been homeless for 10 years. Without
21 housing its hard to get back into school. I want to become an x-ray
22 technician.

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DECLARATION OF CHRISTIE MARIE COOK IN SUPPORT OF TRO - 1

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5. San Rafael police have taken my homes many times. I lived at the service support area under the freeway for many months.

6. I had a voucher, then the voucher was taken away. I don't know why my voucher was taken away because I have not been able to keep in touch with the housing authority. I do not have a case manager.

7. I don't have any family around here to put me up. It's been rough.

8. There is a high likelihood that I have cervical caner. I am currently being evaluated for cancer do the high risk. I am currently waiting for results for that. Cancer runs in

9. I have post traumatic stress disorder from living on the street. I have been robbed, and my possessions taken from me.

10.I have high blood pressure.

11.I am suppose to be on medication for my schizoaffective disorder. But I have not been able to, because of. The San Rafael Police have taken my property, including taking my medication, and I have not been able manage my schizoaffective disorder.

12. When I had a voucher, I didn't have a phone or a way to get in touch with my caseworker. When it was time to apply it, I couldn't find my case manager. My voucher then expired.

DECLARATION OF CHRISTIE MARIE COOK IN SUPPORT OF TRO - 2

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13. On a regular basis, I go to Saint Vincent de Pauls for food. I sometimes eat some of the food on the sidewalk, as do many other people.

14. I am trying to get housing and get off the street. Its not safe out here, especially for women. I have been a victim of domestic violence.

15. The police are always changing the laws on us, telling us different things what are legal and not legal.

16. Attached in Exhibit A is a picture of me dressing the wounds of my partner Anker Aardalen.

17. Attached in Exhibit B is a picture of my request for housing that was emailed to the City of San Rafael.

18. Attached in Exhibit C is a picture of my request for disability accommodations that was email to the city of San Rafael

19. I declare the foregoing under penalty of perjury,

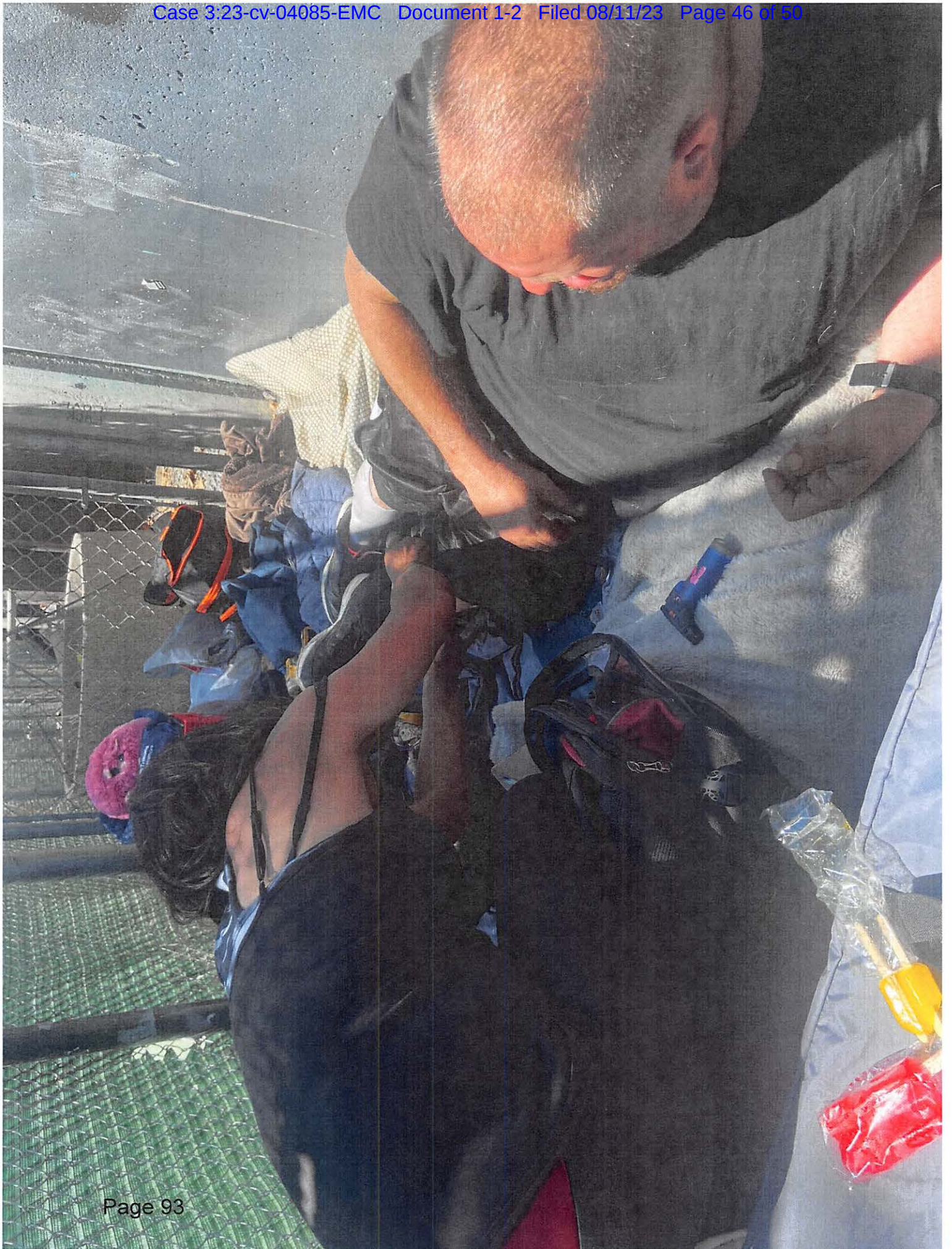
July 31, 2024
Date

DECLARATION OF CHRISTIE MARIE COOK IN SUPPORT OF TRO - 3

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EXHIBIT A
DECLARATION OF CHRISTY COOK

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 22



REQUEST FOR REASONABLE ACCOMMODATION

CITY OF SAN RAFAEL

Date: 07/31/23
Person making request: Christy Cook DOB: 07/10/1980

This request is being made to

City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srapd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

I have a disability. My relevant disabilities are:

Diabetes, Schizos effective
PTSD.

The accommodation I am requesting is:

How this accommodation is related to my disability (Example: I need x because I have mobility issues and x causes my symptoms to get worse):

I need accommodation that are related to other needs (Example: I need to camp close to others because I am being stalked)

How to contact me about this request: Phone/email c/o

Email: CampIntegritySanRafael@Yahoo.com

You are directed to speak to my advocate(s): _____

Other Contact Info:

Signature 

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EXHIBIT B

DECLARATION OF CHRISTY COOK

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 23

CITY OF SAN RAFAEL

REQUEST FOR SHELTER PLACEMENT/ACCOMMODATION REQUEST

Date: July 31, 2023

NAME: Christy Cook Age: 43

SINGLE, COUPLE, OTHER Couple GENDER Female

THIS REQUEST IS MADE TO

City of San Rafael, City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srpd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

VEHICLE (circle one): Yes/No PET: YES/NO Number of Pets: 1

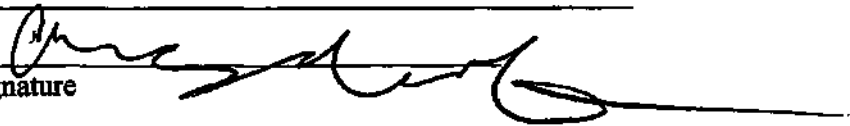
Best way to contact me (email, camp, cell etc.) _____

Backup Contact: CampIntegritySanRafael@Yahoo.com

Adequate Shelter For Me: (Check each that apply)

- Johnathan's Place, Congregate Shelter
- Johnathan's Place, Single Unit
- New Beginnings Center
- Permanent Housing – I Have Income/ I Don't Have Income
- Motel or other single unit.
- Helen Vine Recovery Center or Other Medical Facility _____
- Other: _____

Request for Accommodation: I want to request a reasonable accommodation. Example- I need a single unit sleeping accommodation because I have PTSD and can't sleep in congregate shelter.

Signature 

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EXHIBIT I

DECLARATION OF

ANKER AARDALEN

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 25

1 Residents of Camp Integrity- PRO SE
2 773 Lincoln Avenue, San Rafael CA 94901
3 PO BOX 2217, San Rafael CA 94912-2217
4 CampIntegritySanRafael@yahoo.com

5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NORTHERN CALIFORNIA

7 SHALEETA BOYD, ET AL
8 Plaintiff,
9 vs.
10 CITY OF SAN RAFAEL ET AL
11 Defendant

Case No.: Number

DECLARATION OF ANKER AARDALEN IN
SUPPORT OF TRO AND PI

- 13 1. I am a native of Marin County, and was born and raised here
- 14 2. I went to high school with Gavin Newsome. My sister went out with him.
- 15 3. I am former longshoreman for twelve years, and a merchant marine for 11
- 16 years. I was the shop steward for my union. Around the Great Recession of
- 17 2008 the recession hit and I lost my job. I went from make 40 dollars and
- 18 hour to making minimum wage at Lucky's Grocery store. After that. My
- 19 fiancée was killed in a hit and run.
- 20 4. I lost my housing around 2010. After I lost my housing, started continuously
- 21 catching cases related to drugs. I ended up getting one felony on my record.
- 22 5. I don't have a birth certificate, ID, or social security card

28 DECLARATION OF ANKER AARDALEN IN SUPPORT OF TRO AND PI - 1

1 6. I accidentally overdosed two weeks ago. I had to be narcanned three times.

2 Someone left fentanyl in a chip bag I was eating and it almost killed me.

3
4 7. I stayed in New Beginnings Center, and I enjoyed my staying there. I would

5 accept going back to New Beginnings Center but they are full. I am also

6 seeing about going up to Camp Compassion in Novato.

7
8 8. I tried to Turn Key Program when they were giving out housing, and I got

9 turned down. I was told by a guy named Colin that I did not qualify.

10
11 9. I regularly go to Saint Vincent de Pauls to get food. They give me to-go

12 bags. I often eat some of the food on the sidewalk there, where many other

13 people also consume meals.

14
15 10.I have been on the streets for the past 16th year.. no alternative shelter right

16 now.

17
18 11.My knee is currently dislocated, it is also full of water so it is not popping

19 back in.

20
21 12.I rely on my girlfriend, Christie who is my caregiver while I recover from

22 my knee injury. She helps bandage my wounds and pushing me in the wheel

23 chair.

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DECLARATION OF ANKER AARDALEN IN SUPPORT OF TRO AND PI - 2

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13. The City of San Rafael has not provided me any education about the rules of SMC §§19.50 and I have seen no weekly pop up service center at Camp Integrity.

14. Attached in Exhibit B is my request for shelter that was sent to the City of San Rafael.

15. Attached in Exhibit C is my request for disability accommodations and was sent to the City of San Rafael.

I swear the foregoing under penalty of perjury

Anker Aardalen
Anker Aardalen

DECLARATION OF ANKER AARDALEN IN SUPPORT OF TRO AND PI - 3

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EXHIBIT A

DECLARATION OF ANKER AARDALEN

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 26



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EXHIBIT B

DECLARATION OF ANKER AARDALEN

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 27

REQUEST FOR REASONABLE ACCOMMODATION

CITY OF SAN RAFAEL

Date: 8/07/23

Person making request: Anker Aardalen DOB: 03/26/1972

This request is being made to

City Manager cristine.allovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srrpd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

I have a disability. My relevant disabilities are:

HA Knee dislocation, lower back pain

The accommodation I am requesting is:

SDI / housing

How this accommodation is related to my disability (Example: I need x because I have mobility issues and x causes my symptoms to get worse):

I need housing because i have a mobility problem

I need accommodation that are related to other needs (Example: I need to camp close to others because I am being stalked)

I need to have a shower every day.

How to contact me about this request: Phone/email c/o

628 235-9720 - spliconez6@gmail.com

Email: CampIntegritySanRafael@Yahoo.com

You are directed to speak to my advocate(s): _____

Other Contact Info:

Signature _____

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EXHIBIT C
DECLARATION OF ANKER AARDALEN

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 28

CITY OF SAN RAFAEL

REQUEST FOR SHELTER PLACEMENT/ACCOMMODATION REQUEST

Date: July 31, 2023

NAME: Anker Age: 51

SINGLE, COUPLE, OTHER Couple GENDER M

THIS REQUEST IS MADE TO

City of San Rafael, City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srpd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

VEHICLE (circle one): Yes/No PET: YES/NO Number of Pets: 1

Best way to contact me (email, camp, cel) etc. (628) 285-9720 spliceone26@gmail.com

Backup Contact: CampIntegritySanRafael@Yahoo.com

Adequate Shelter For Me: (Check each that apply)

Johnathan's Place, Congregate Shelter

Johnathan's Place, Single Unit

New Beginnings Center

Permanent Housing - I Have Income/ Don't Have Income

Motel or other single unit.

Helen Vine Recovery Center or Other Medical Facility

Other:

Request for Accommodation: I want to request a reasonable accommodation. Example- I need a single unit sleeping accommodation because I have PTSD and can't sleep in congregate shelter.

Four horizontal lines for additional text.

Handwritten signature and the word 'Signature' below it.

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EXHIBIT J

DECLARATION OF

COURTNEY HUFF

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 29

1 Residents of Camp Integrity- PRO SE
773 Lincoln Avenue, San Rafael CA 94901
2 PO BOX 2217, San Rafael CA 94912-2217
3 CampIntegritySanRafael@yahoo.com

4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NORTHERN CALIFORNIA
6

7 SHALEETA BOYD, ET AL

8 Plaintiff,

9 vs.

10 CITY OF SAN RAFAEL ET AL

11 Defendant
12

Case No.: Number

DECLARATION OF COURTNEY HUFF IN
SUPPORT OF TRO AND PRELIMINARY
INJUNCTION

13
14 1. I Courtney Huff do declare the foregoing under penalty of
15
16 perjury and have full knowledge of what is in this
17
18 declaration and if called to testify could and would do so
19
20 competently.
21

22
23 2. My last job I was a live in caregiver. When my client died,
24
25 I lost my job and housing. have lived on the streets since
26
27 around the February of 2020.
28

DECLARATION OF COURTNEY HUFF IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 1

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3. While living on the streets, I have been a victim of rape on multiple occasions.

4. Living outside, rape is one of the biggest threats, including being drugged and raped. The police don't believe us when we report the rapes because they believe we are worthless drug addicts.

5. I have been victim these rapes on multiples . I am survivor of childhood sexual abuse, and I have complex PTSD.

6. Currently I have an apartment however I have been displaced because I have been sexually assaulted there, and I have suffered from domestic violence.

1
2
3 7. I am afraid to go back to my apartment because I am afraid
4
5 that if I go there, I will be sexually or attacked. Months
6
7 ago, my ex hit me so hard that I got a concussion that I still
8
9 have symptoms. My ex threatened that he would murder
10
11 me at my home. My ex has destroyed my relationship with
12
13 my daughter, who won't come over to my house any more.

14
15
16 8. I also am a survivor of human trafficking. I have been a
17
18 victim of human trafficking by a major prison gang, which
19
20 forced me into human trafficking in the past and have told
21
22 me if I do not prostitute for them that they will murder me.
23
24 I have escaped their group, but I sometimes see members of
25
26 this group watching me or following me in San Rafael.
27
28

DECLARATION OF COURTNEY HUFF IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 3

1 9. I am afraid that this group knows where I live. I do not
2
3 believe the locks on the doors will protect me. The housing
4
5 authority wont allow me to change my locks on my
6
7 apartment, and have told me if I change my locks they will
8
9 evict me. So its not safe to be there.

10 10. When I am on the streets, I rely on being able to sleep
11
12 near people who will protect me from my abusers. I need to
13
14 around people who protect me for my personal safety.

15
16
17 11. I have to the Mahone Creek Path and this is one of the
18
19 few places that I feel safe and that I wont be attacked so
20
21 long as I am around certain people who protect me.

22
23
24
25 12. I have not witnessed anyone provide education about
26
27 SMC 19.50 or any popup service center at Camp Integrity.
28

DECLARATION OF COURTNEY HUFF IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 4

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13. I declare the foregoing under penalty of perjury,

/s/ Courtney Huff

C. Huff, 8/7/23

DECLARATION OF COURTNEY HUFF IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 5

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EXHIBIT K

DECLARATION OF

DR. JEFF

SCHONBERG PHD

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 33

1 Residents of Camp Integrity- PRO SE
773 Lincoln Avenue, San Rafael CA 94901
2 PO BOX 2217, San Rafael CA 94912-2217
CampIntegritySanRafael@yahoo.com

3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NORTHERN CALIFORNIA
5

6 SHALEETA BOYD, ET AL

7 Plaintiff,

8 vs.

9 CITY OF SAN RAFAEL ET AL

10 Defendant

Case No.: Number

DECLARATION OF DR. JEFFREY SCHONBERG
PHD. IN SUPPORT OF TRO AND PRELIMINARY
INJUNCTION

- 14 1. I Dr. Jeffrey Schonberg, have full knowledge of what is in this declaration, and if called to testify could and
15 would do so competently.
- 16 2. I have a Ph.D. in Medical Anthropology from the University of California, San Francisco / University of
17 California, Berkeley Joint Program in Medical Anthropology. I am a Research Fellow at the University of
18 California, Berkeley, Center for Social Medicine.
- 19 3. My work has focused on people experiencing homelessness in the Bay Area
- 20 4. From November 1994 through December 2006 I was part of a team with the anthropologist Philippe
21 Bourgois, in a National Institute of Health funded, in-depth, immersive study of the lives of people
22 experiencing homelessness who were living on the borders and underneath the overpasses of freeways in
23 San Francisco. The population we studied was heavily addicted to heroin as well as other drugs, including
24 crack-cocaine and alcohol; as well as suffered from various, disabling mental health conditions, including
25 Post Traumatic Stress Disorder, as a result of years of physical and emotional abuse, from childhood
26 continuing into the present. Our work required us to live and share the lives of several dozen homeless

27
28 DECLARATION OF DR. JEFFREY SCHONBERG PHD. IN SUPPORT OF TRO AND PRELIMINARY
INJUNCTION - 1

1 heroin addicts over those twelve years. This study culminated in a co-authored, award winning book about
2 our findings and experiences, entitled *Righteous Dopefiend*, (2009, University of California Press).

- 3 5. In 2019 I was a consultant on a study (interrupted by COVID) made up of public health researchers,
4 doctors and epidemiologists from the Responsive Solutions for Vulnerable Populations team at UCSF in
5 partnership with the Department of Homelessness and Supportive Housing in San Francisco. The aims of
6 the research were to better understand the population of people experiencing homelessness who minimally
7 engaged with service providers.
- 8 6. I have been called as an expert witness in several other federal civil rights lawsuits regarding homelessness
9 including *Where do We Go Berkeley vs. The City of Emeryville*, *John Janosko et al v City of Oakland et al*,
10 in which the courts issued restraining orders due to state created dangers.
- 11 7. I have carefully evaluated San Rafael's Municipal 19.50 and its associated ordinances. Based on my
12 training and experience, I have personal knowledge that the ordinance implemented as written may
13 jeopardize the safety and increase the risk of harm and suffering to people who are unhoused in San Rafael.
14 Most saliently, based on my training and experience I predict that the ordinance will have the following
15 impacts:
- 16 8. Increase unhoused women's becoming victims of sexual assault, human trafficking, domestic violence, and
17 other types of interpersonal conflict.
- 18 9. Increase the number of unhoused people becoming victims of violent crime generally.
- 19 10. Increase the number of overdose deaths of unhoused people by 15-25% for unsheltered, or approximately
20 1-4 people dying every year who may have otherwise survived.
- 21 11. Breakup essential survival strategies based on community acts of obligation and reciprocity, including
22 physical safety, subsistence strategies, the sharing of various resources, including information for accessing
23 various city, state and county social services such as resources for victims of violence, permanent housing
24 resources, drug and alcohol recovery resources, food and clothing resources, etc.

25
26 **SMC 19.50 Will Result in Increased Violence Against Women, and Unhoused People**

27 **Generally**

28 **DECLARATION OF DR. JEFFREY SCHONBERG PHD. IN SUPPORT OF TRO AND PRELIMINARY
INJUNCTION - 2**

- 1
- 2
- 3 12. Based on my training and experience, I predict that SMC 19.50 will significantly increase the risk of sexual
- 4 assault, domestic violence, and human trafficking perpetrated against women who are unhoused.
- 5 13. A report funded by the US Department of Justice, using scientific models based on the Routine Activity
- 6 Theory for criminal victimization of unhoused women, follow three main factors – (1) exposure to
- 7 offenders, (2) target suitability, and (3) presence or absence of capable guardians (Jasinski et al. 2005, 55).
- 8 14. Following Jasinski et al., SMC 19.50 will significantly decrease unhoused women’s access to capable
- 9 guardians and increase their exposure to offenders. The decreased access to capable guardians will result
- 10 from SMC 19.50’s explicit focus on isolating unsheltered people into small decentralized campsites. As
- 11 recently reported by the UCSF Benioff Study, 39% of all unsheltered women report intimate partner
- 12 violence while living on the street. By selecting to live in their chosen communities, unsheltered people
- 13 select those with whom they feel safe—an imperative for those suffering with PTSD and other debilitating
- 14 mental health illnesses, in order to maintain their mental, emotional and physical well-being when living in
- 15 spaces where risks of bodily and psychological harm are common. Electing to live in large groups among
- 16 friends in familiar communities provides opportunity for protection under the concept of “watching each
- 17 other’s backs.” To watch someone’s back also becomes part of their survival network based on
- 18 reciprocating favors and obligations.
- 19 15. Due to the fact that SMC 19.50 isolates two people within a camp, this by definition limits the pool of
- 20 communal resources, both human and material, in which to share resources. Jasinski found that a predictor
- 21 of unhoused women being victim of violence was day to day traveling (page 52). 49% of unsheltered
- 22 people are attacked by strangers. SMC 19.50 will force women to stray beyond their camps in search of
- 23 resources.
- 24 16. SMC 19.50 would greatly expand the number of time women would have to spend traveling to obtain food,
- 25 water, companionship and other necessities of daily, social life because it would disperse them throughout
- 26 the City, rather than access these resources in a central location where those things are already present and
- 27 thus increase their risk of being attacked by a stranger.

28 DECLARATION OF DR. JEFFREY SCHONBERG PHD. IN SUPPORT OF TRO AND PRELIMINARY
INJUNCTION - 3

1
2 17. And therefore, based on an evaluation of statistical models available SMC 19.50 is likely to increase
3 unsheltered women's likelihood of being victims of sexual assault and other forms of violence.

4 18. In summary, I have found in my twenty years of research in unhoused communities, that communities of
5 more than two, isolated peoples are essential for survival. The importance and necessity of community
6 connections and the development of strong relationships and cultivating trust amongst the various men and
7 women engage in survival strategies of mutual dependence, obligation and reciprocation. The lack of
8 means inherent within the unhoused communities necessitates a larger pool of both human and material
9 resources.

10
11 **SMC 19.50 Will Result in 15% to 25% Increase in Drug Overdose Deaths Annually, Killing**
12 **1 to 4 people on annual basis who otherwise could have lived, secured housing, and ended their addiction.**

13
14 19. Based on my research amongst communities of drug dependent unhoused peoples, SMC
15 19.50 will greatly increase the risks of overdose and other forms of drug-induced
16 suffering and illness.

17
18 20. Around 26% of unsheltered people report injecting drugs and 1 in 5 report having an
19 overdose experience while unhoused.¹ Unhoused people are 12 times more likely to die
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28 ¹
DECLARATION OF DR. JEFFREY SCHONBERG PHD. IN SUPPORT OF TRO AND PRELIMINARY
INJUNCTION - 4

1 from drug overdose than those who are not^{2 3}. In one of the largest studies of unsheltered
2 people morbidity, it was found within a 14 year study period of over 60,000 study
3 participants that 24% of unhoused people die due to drug overdose death, and in
4 particular, opioid related deaths.⁴
5

6 21. Using current scientific models measuring the impact of involuntary displacement effects
7 on unsheltered users who use opioids, I would predict a 15%-25% increase in the amount
8 of drug overdose deaths in the City of San Rafael over the next 10 years if this ordinance
9 is implementing. This is due to the fact that one the single largest risk factors for
10 overdose is using in isolation.
11

12
13 22. Using a simulation modeling of 23 Cities in the United States, Borocas et al, showed that
14 involuntary displacement by unsheltered people contributed to a 15% to 25% increase in
15 overdoses and hospitalizations, a decrease of initiations of medications for opioid use
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20
21 ² Doran KM, Fockele CE, Maguire M. Overdose and Homelessness—Why We Need to Talk
22 About Housing. *JAMA Netw Open*. 2022;5(1):e2142685.
doi:10.1001/jamanetworkopen.2021.42685

23
24
25 ³ Los Angeles County Department of Public Health, Center for Health Impact Evaluation. Recent trends
26 in mortality rates and causes of death among people experiencing homelessness in Los Angeles County.
January 2021. Accessed November 8,
2021. http://www.publichealth.lacounty.gov/chie/reports/HomelessMortality2020_CHIEBrief_Final.pdf

27 ⁴ Fine DR, Dickins KA, Adams LD, De Las Nueces D, Weinstock K, Wright J, Gaeta JM, Baggett TP. Drug
28 Overdose Mortality Among People Experiencing Homelessness, 2003 to 2018. *JAMA Netw Open*. 2022 Jan
4;5(1):e2142676. doi: 10.1001/jamanetworkopen.2021.42676. PMID: 34994792; PMCID: PMC8742197.

1 disorder, and greatly contributes to deaths among people experiencing homelessness who
2 inject drugs.

3
4 23. San Rafael's unhoused population is roughly estimated at 386 as of the last Homeless
5 Point In Time Count. Annual morbidity of unhoused people is 3%-8%⁵ - or around 27 to
6 74 people dying this coming year. If we take overdose deaths as a factor of 24%, this
7 would mean of unsheltered overdose deaths would constitute 6.48-17.76 overdose deaths.
8 Applying the statistical model in *Barocas et al*, the model would predict at least 1 to 4
9 more people dying from drug overdoses every year who would otherwise would not have
10 died.
11

12
13 24. This finding is consistent with my research of unhoused people who inject drugs.
14 People who use or inject drugs rely on informal networks of support to mitigate the
15 dangers of overdose. People who use rely on their campmates to administer
16 Narcan and adrenaline in order to prevent death by drug overdose. Early detection
17 and administration of Narcan and adrenaline are also key to preventing irreparable
18 brain damage that can result if an overdose is not promptly treated.
19

20
21 25. Based on my evaluation of SMC 19.50, the breaking up of encampments will
22 significantly hinder networks of informal support, and will result in involuntary
23
24

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26
27 ⁵ National Health Care for the Homeless Council <https://nhchc.org/wp-content/uploads/2020/12/Section-1-Toolkit.pdf>

1 displacement and living conditions that were shown in the *Barocas et.al*, study to
2 increase the morbidity of drug overdoses by 15%-25% over a 10 year period.
3
4
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6 I swear the foregoing under penalty of perjury,
7

8 /s/Jeffrey Schonberg [Electronically Signed Under Civil Local Rule 5-1(h)
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28 DECLARATION OF DR. JEFFREY SCHONBERG PHD. IN SUPPORT OF TRO AND PRELIMINARY
INJUNCTION - 7

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EXHIBIT L

DECLARATION OF

ROBBIE POWELSON

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 34

1 Attorney Names
Attorneys' Business Address
2 City, ST ZIP Code
Phone | Fax
3 Email

4 COURT NAME

5 JURISDICTION

6 PLAINTIFF'S NAME,

7 Plaintiff,

8 vs.

9 DEFENDANT'S NAME,

10 Defendant

Case No.: Number

DECLARATION OF ROBBIE POWELSON IN
SUPPORT OF TRO AND PRELIMINARY
INJUNCTION

- 14 1. I Robbie Powelson have full knowledge of what is in this declaration and if called to testify
15 could and would do so competently.
- 16 2. I am a volunteer who assist people who are unhoused in San Rafael and Camp Integrity. I
17 have been assisting residents of Camp Integrity fundraise for the two porta potties and
18 handwashing station we have here at the camp.
- 19 3. I have also attended meetings with Chris Hess and Lynn Murphy at Camp Integrity, looking
20 for compromises and a way forward for people to be able to remain here without being
21 displaced under threat of arrest or citation.
- 22 4. I attended both City Council meetings for the passage SMC 19.50.
- 23 5. At the city Council Meeting, I witnessed Chris Hess sitting next to Cristine
24 Alilovich state. I have transcribed what he said to the best of my ability and
25 for clarity from a recording of the video
26 available [https://www.youtube.com/live/MV-](https://www.youtube.com/live/MV-U9Ub3yLU?feature=share&t=6841)
27 [U9Ub3yLU?feature=share&t=6841](https://www.youtube.com/live/MV-U9Ub3yLU?feature=share&t=6841) [Time stamp 1:54:01
28

DECLARATION

1 6. I witnessed Chris Hess say the following“ If the ordinance passes tonight the
2 first day it could be legally implemented is August 16th. However that doesn't
3 mean it is fully executed on that day. The city's primary concern is the
4 Mahone Creek Path Encampment [Camp Integrity] where we have 30 to 35
5 campsites currently. Between the date in which this meeting occurs and the
6 time from when we implement this ordinance, we would begin right away
7 with an education program for the homeless community involving all of our
8 service, we would be providing notice about all of the new rules.. We intend
9 to start a pop up weekly service support at the path to connect connectivity wit
10 service providers... there is great opportunity for outreach We do need to state
11 if the encampment grows or intensifies over that time period, we will not be
12 able to use our preferred approach but a more enforcement approach”

13
14
15 7. I also witnessed that one of the City Council Members was skeptical about the
16 way the ordinance. I witnessed Council Member Eli Hill say in the following
17 recording of the meeting Time stamped copy
18 2:58:28 <https://www.youtube.com/live/MV-U9Ub3yLU?feature=share> “when
19 reading from top to bottom it the ordinance it has a very distinct sense of
20 “how is this going to be implemented” . it does not necessarily speak to what
21 you are describing to about implementation. I am holding us accountable a lot
22 of the testimony you have provided this evening about dignity and
23 compassion in how this is going to happen... I'm hearing time that you will
24 engage and educate. I'm hearing much as possible engaging people who can
25 be prepared for housing. I'm hearing that there are people waiting on the
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DECLARATION OF ROBBIE POWELSON IN SUPPORT OF TRO AND PRELIMINARY INJUNCTION - 2

1 housing list... I'm holding us accountable to about a lot you are describing
2 about implementation”

3
4 8. After the meeting I sent an email to Chris Hess asking for clarification about
5 what properties camping was absolutely prohibited and what properties it was
6 conditionally prohibited. He refused to clarify. Attached in Exhibit A are true
7 and correct copies of our communications.

8
9 9. On Tuesday, August 1st, I witnessed San Rafael Police Officers lead by sergeant Cleland
10 threaten two unhoused people, Kachina Moncrief and John Bradley, with arrest if they did not
11 vacate their campsite by the Falkirk Cultural Center.

12
13 10. I witnessed Sergeant Cleland tell Kachina Moncrief and John Bradley that the only place they
14 could camp was at Camp Integrity i.e. Mahone Creek Path. I witnessed drive the possessions
15 of Kachina Moncrief and John Bradley to Camp Integrity. I also drove my truck down with
16 Mrs. Moncrief and Mr. Bradley possessions down to the path. Sergeant Cleland told me to
17 drive my truck into the path, and unload their possessions

18
19 11. Attached in Exhibit B is a copy of the July 22nd Pacific Sun, where City Council Kertz admits
20 the City will not tell people where they can go to live, and where the Director of the only
21 homeless shelter in Marin County declares that there are no shelter bed available in Marin.

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28 /s/ Robbie Powelson,

08/10/23

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EXHIBIT A

DECLARATION OF ROBBIE POWELSON



Robbie .Powelson <robbiewelson@gmail.com>

RE: SMC 19.50 - What Properties Will People Be Able To Live On?

3 messages

Robbie .Powelson <robbiewelson@gmail.com>

Fri, Jul 21, 2023 at 10:53 AM

To: chris.hess@cityofsanrafael.org, Rob Epstein <rob.epstein@cityofsanrafael.org>, David Spiller <661@srd.org>, public.works@cityofsanrafael.org

Chris Hess, David Spiller, Amy Miller, and Robert Epstein,

Would any of you be able to provide a map, or the names/numbers of parcels of public land, where people will not be penalized for camping once SMC 19.50 goes into effect?

In the alternative, could you inform me what parcels *are not* open space, parking garages, public facilities, public utility infrastructure, public right-of-way and side walks, or property listed under SMC 19.50.030.

Thank you for your anticipated cooperation,
Robbie

Chris Hess <chris.hess@cityofsanrafael.org>

Wed, Jul 26, 2023 at 5:18 PM

To: "Robbie .Powelson" <robbiewelson@gmail.com>, Rob Epstein <Rob.Epstein@cityofsanrafael.org>, David Spiller <661@srd.org>, Public Works <Public.Works@cityofsanrafael.org>

Robbie,

Thank you for your questions on this matter and requesting clarifications about the new ordinance. Once 19.50 is in effect, individuals who have no place to go will be allowed to camp on City properties as long as they are following the time, place, and manner regulations which are spelled out in the ordinance. If someone potentially displaced by these rules would like to know the legality of a particular space in the City, we will do our best to give guidance. However, keep in mind that if too many people went to a given space and therefore cannot all camp while observing the distance rules, they would be in violation.

We know that at the Mahon Creek Path, individuals camping there will be displaced. As I said in the City Council meeting, the City and the service-provider system of care plan to have individual conversations about their next step, with all who are willing to engage in that conversation. This should provide opportunities to clarify the legality of particular camping sites, which will be always dependent upon their maintaining the distance from other campsites and critical infrastructure.

I hope this helps, we are undertaking our work to educate affected individuals, and please let us know if any individual or service provider has a question about a City property.

Chris A. Hess (he/him) | City of San Rafael

Assistant Director

Community Development

Housing and Homelessness Programs

1400 5th Avenue, 3rd floor

Page 128

8/10/23, 10:43 PM

Gmail - RE: SMC 19.50 - What Properties Will People Be Able To Live On?

San Rafael, CA 94901

415-458-5017



SAN RAFAEL
THE CITY WITH A MISSION

[Quoted text hidden]

Robbie .Powelson <robbiewelson@gmail.com>

Thu, Jul 27, 2023 at 7:16 AM

To: Chris Hess <chris.hess@cityofsanrafael.org>

Cc: David Spiller <661@srpd.org>, Public Works <public.works@cityofsanrafael.org>, Rob Epstein <rob.epstein@cityofsanrafael.org>

Thank you, but your response does not answer my questions.

If you cannot provide a list or map of the public parcels I've requested, please tell me if it is because those documents do not exist.

If you cannot answer, please let me know why.

[Quoted text hidden]

--

Gender pronouns He/Him/They

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EXHIBIT B

DECLARATION OF ROBBIE POWELSON

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 35

No place to go: San Rafael continues with plan to displace homeless people

By Nikki Silverstein

Jul 25, 2023



JUMP START Case management professionals spent their day connecting homeless people on the streets of San Rafael with services. L to R: Ben Ranghiasi, Ritter Center; Zoe Neil, Downtown Streets Team; Nikolas Brady, Marin County Health and Human Services; Lynn Murphy, San Rafael Police Department; Joel Hernandez, St. Vincent de Paul Society; Cely Canas, Marin County Health and Human Services; Mel Burnette City of San Rafael; Hannah McCarthy, Homeward Bound; Fatai Tokolahi, Community Action Marin

Part Two of a two-part report. Read Part One [here](#).

Last week, San Rafael capitulated to residents complaining about homeless encampments by passing an **ordinance** that severely curtails camping. The new rules don't come close to resolving the issues raised by people who say they are

footprint. In addition, there must be at least 200 feet of separation between campsites.

Officials maintain that larger camps lead to increased public health and safety issues.

Let's assume for a moment that it's critical to reduce the size of encampments in San Rafael, particularly the largest one on the Mahon Path. The city has indicated that more than half of the approximately 40 homeless people living there must relocate to comply with the ordinance. And in a strange twist, officials say the campers will need to decide amongst themselves who stays and who goes.

I visited the Mahon Path twice recently and spoke with many of the homeless campers. None of them want to volunteer to leave. And, if they're one of the unlucky ones pushed out by their peers, they don't know where to go.

City officials steadfastly refuse to identify places for the ousted folks to live.

connected with their homeless clients and keep them on a path toward permanent housing.

But the partners aren't magicians, and it's almost certain that few, if any, of San Rafael's displaced homeless people will receive a shelter bed or housing before the ordinance requires them to move to places unknown.

The supply of shelter beds in Marin is woefully inadequate, with less than 200 shelter beds for an estimated 1,121 homeless people, according to last year's federally mandated point-in-time count.

One organization, Homeward Bound, operates most of the shelters in the county. While the majority of its beds are for adults coming in from the street, other beds are allocated specifically for homeless families, homeless folks just released from the hospital and homeless people with mental health issues. Another nonprofit provides shelter for people impacted by domestic violence.

It doesn't appear that the situation will improve anytime soon. Fordham says about seven of every 10 people who leave Homeward Bound move into permanent housing. Currently, no Section 8 housing vouchers are available, and a new allocation isn't expected until late fall.

"People are not moving through the shelter and out into housing anywhere near as fast as they were 12 months ago," Fordham said. "We definitely have more demand than we have openings."

Without enough shelter beds, the homeless people displaced by San Rafael's new camping restrictions will scatter. Some may remain nearby. Others may move to remote areas, such as up in the hills.

The result is that case managers often won't be able to locate the clients they've been tasked with helping.

"We're doing our best, but as people get spread out everywhere it's going to become a lot harder," Zoë Neil, director of

Downtown Streets Team, said in an interview. "We'll have outreach

residents, the city is compromising the long and complicated process of getting people off the streets and into a shelter or permanent home.

The city's partners can't move mountains, Neil says. When I spoke with leaders at most of Marin's other nonprofit groups working with homeless people, they voiced similar concerns.

"There's not a lot we can do, of course, when there are incredible limitations on the number of shelter spaces and housing units available for folks," said Chandra Alexandre, chief executive officer of Community Action Marin. "If people need medical assistance or any kind of immediate support, we're there to help provide that for them. Clothing, blankets, tents, socks, hygiene kits, emergency food."

I pressed Hess, San Rafael's assistant director of homelessness, about his repeated assurance that the city's partners would help the campers displaced by the ordinance. He failed to provide further

Somehow, hand-holding doesn't seem like enough when a homeless person is required to move from the place they're living and separate from their community.

San Rafael officials are well aware that a viable temporary solution exists—a city-sanctioned homeless encampment. In fact, for over a year, the city ran a “service support area (SSA).” It closed permanently in August 2022.

While critics were unhappy with its location beneath a busy freeway overpass, the city provided security, porta potties, handwashing stations and trash pickup. Equally important, case managers knew where to find their homeless clients and were successful in connecting them with services and housing.

“The city is not considering a sanctioned encampment along the Mahon Path or elsewhere,” Hess said. “We did that with the SSA and we're proud that 35 of the 47 people ended up housed.”

The sanctioned camp was an expensive undertaking. I guess it's not surprising that San Rafael won't pony up to keep the

Murphy, a licensed therapist who works for the San Rafael Police Department as the mental health outreach liaison, visits the city's encampments daily.

"My focus is strictly on people who are homeless," Murphy told me as I tagged along with her on an outreach mission that included about a dozen people from many of the city's nonprofit partners.

They came together for a morning meeting and then fanned out across San Rafael to areas where homeless people are known to camp. The enthusiastic group, armed with pens and clipboards, wanted to contact as many of San Rafael's homeless people as possible.

Their goal was to ensure that homeless folks had up-to-date information in the county's coordinated entry system, the first step in eligibility for services and housing. If someone wasn't in the system, case managers could assess them on the spot and input their data.

Watching Murphy and the case managers in action was impressive. Murphy knew the name of every homeless person we

people contacted will have a shelter bed or housing before San Rafael's ordinance kicks in. Being in the system likely won't help them in the short-term.

"We care very much about everyone living outside, but this is one of the trickier situations," Neil, of Downtown Streets Team, said about the ordinance. "The time frame is not ideal at all. I don't know what the city council expects us to do or what their constituents think is going to happen."

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EXHIBIT M

DECLARATION OF

DONALD HENSLEY

1 Residents of Camp Integrity- PRO SE
773 Lincoln Avenue, San Rafael CA 94901
2 PO BOX 2217, San Rafael CA 94912-2217
3 CampIntegritySanRafael@yahoo.com

4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NORTHERN CALIFORNIA
6

7 SHALEETA BOYD, ET AL

8 Plaintiff,

9 vs.

10 CITY OF SAN RAFAEL ET AL

11 Defendant

Case No.: Number

DECLARATION OF DONALD HENSLEY IN
SUPPORT OF TRO AND PI

- 12
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- 15
- 16 1. I Donald Hensley do declare the following is true and correct under penalty
17 of perjury. I have full knowledge of what is in this declaration and if called
18 to testify could and would do so competently.
- 19
- 20 2. I am 51 years old 12/22/71
- 21
- 22 3. For the past 15 years, I have lived on boats. I lived at the San Rafael Yacht
23 Harbor for 5 years, then after I was anchored out of China Camp for about
24 five years.
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DECLARATION OF DONALD HENSLEY IN SUPPORT OF TRO AND PI - 1

- 1 4. In July of 2021, my boat was seized by state officials at McNears beach. I
2 had been gone from my boat for three hours to save my boat, and it was
3 seized destroyed and never received any notice or a way to get my boat
4 back.
5
- 6 5. I put all of my money into that boat, that was my home and all of my equity.
7 After that they destroyed, I had no where else to live. I started living in my
8 car after that.
9
- 10 6. While I was waiting to get my Tahoe smogged, Tahoe towed my car because
11 I was still waiting on getting it smogged because it was a salvage title.
12
- 13 7. After that, I have lived in tents ever since then because I have nowhere else
14 to live.
15
- 16 8. I have had my camps broken down by San Rafael Police 10-15 times. They
17 have twice destroyed my property.
18
- 19 9. In 2022 I had a tent under the Freeway. Without notice, San Rafael Police
20 took all of my like all mementos from my dead girlfriend, and family
21 heirloom, and my birth certificate, and other important documents from my
22 tents.
23
- 24 10. I have an eight month old $\frac{3}{4}$ rottweiler and a quarter German shepherd who I
25 love very much.
26
27
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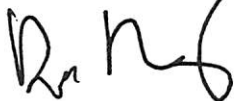
DECLARATION OF DONALD HENSLEY IN SUPPORT OF TRO AND PI - 2

1 11.I am here at the Mahone Creek Path because it is the only place that I won't
2 get hassled by San Rafael Police and others. The City of San Rafael has
3 offered no education about the new rules in SMC §§19.50 and have not done
4 a weekly pop up service center.
5

6
7 12.Attached in Exhibit A is my request for housing sent to the City of San
8 Rafael.
9

10 13.I swear the foregoing under penalty of perjury
11

12 /s/ Donald Hensley
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DECLARATION OF DONALD HENSLEY IN SUPPORT OF TRO AND PI - 3

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EXHIBIT A
DECLARATION OF DONALD HENSLEY

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 40

CITY OF SAN RAFAEL

REQUEST FOR SHELTER PLACEMENT/ACCOMMODATION REQUEST

Date: July 25, 2023

NAME: Donald Hensley Age: 51

SINGLE, COUPLE, OTHER S GENDER M

THIS REQUEST IS MADE TO

City of San Rafael, City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srapd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

VEHICLE (circle one): Yes/No PET: YES/NO Number of Pets: 1

Best way to contact me (email, camp, cell etc.) 415-532-9846

Backup Contact: CampIntegritySanRafael@Yahoo.com

Adequate Shelter For Me: (Check each that apply)

- Johnathan's Place, Congregate Shelter
Johnathan's Place, Single Unit
New Beginnings Center
* Permanent Housing - I Have Income I Don't Have Income
Motel or other single unit.
Helen Vine Recovery Center or Other Medical Facility
Other:

Request for Accommodation: I want to request a reasonable accommodation. Example- I need a single unit sleeping accommodation because I have PTSD and can't sleep in congregate shelter.

[Blank lines for additional text]

Signature [Handwritten Signature]

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EXHIBIT N

DECLARATION OF

AMALIA MENDOZA

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 41

- 1 4. I don't have any family, so I have been at the mercy of people who
2 say they are going to help but don't actually.
- 3
- 4 5. About a year ago, my recent payee began stealing whole checks
5 from my social security. All of the money would go to my payee,
6 and I wouldn't receive any of the money. Finally my payee died,
7 due to a drug overdose she was a Barbara Faghih, and so its likely
8 she was utilizing my checks to funnel her drug habit.
- 9
- 10 6. She never gave me a card that would allow to me access my funds
11 to my social security disability.
- 12
- 13 7. In total she stole about \$8000 dollars from, in addition to all of my
14 COVID-19 stimulus money.
- 15
- 16
- 17 8. If I had my \$8000 dollars returned to me, I would be able to rent a
18 room and house myself. But no one is helping me recoup the lost
19 earnings at this time.
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DECLARATION OF AMALIA MENDOZA IN SUPPORT OF TRO - 2

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9. Currently I live at Camp Integrity in San Rafael. I came here because there are bathrooms, and I was living under the freeway at the camp. Everyone except us go housing from.

10. Then I moved to Albert Park, where I got evicted as well in the case the was the subject of *Hugh v Hess*.

11. I am a participant of the Odyssey Case Management, which is a full service partnership for unhoused people operated by the County of Marin. I have Odyssey because I am diagnosed with PTSD from traumatic childhood events.

12. I also recently had a section 8 Voucher. Odyssey program was going to help me utilize my Section 8 Voucher – but the day I received my voucher was the same day that it was about to expire. Because I was not able to find housing within the time frame, the voucher is now gone and I can't access it.

13. I am actually a case study in well known scientific study about survivors of childhood of sexual abuse. If you look at cases of girls who were molested by women and I was actually studied.

DECLARATION OF AMALIA MENDOZA IN SUPPORT OF TRO - 3

1 Back then it wasn't actually classified as a diagnosis, and no one
2 had seen the effects of PTSD from childhood victims of sexual
3 abuse.
4

5
6 14. I have a close relationship with God, I have a faith that has
7 kept me.
8

9 15. I am afraid of the 200 feet requirement. I have found a
10 partner just to find some protection to survive. Nobody from the
11 City has come out to explain the new rules of SMC §§19.50
12

13
14 16. I have been attacked several times while I have been on the
15 streets.
16

17 17. I had a guy recently stalking me, who kept on bringing their
18 tent close to mine. I had my male friends at the Camp help me
19 persuade him to leave me alone.
20
21

22 18. People from the community donate water to the community.
23 There is a bathroom here.
24

25 19. Attached in Exhibit A is a picture of my request for housing I
26 sent to the City of San Rafael.
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DECLARATION OF AMALIA MENDOZA IN SUPPORT OF TRO - 4

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20. Attached in Exhibit B is my request for disability accommodations I sent to the City of San Rafael.

21. Attached in Exhibit C is a picture of the CEASE AND DESIST letter I sent to the City of San Rafael notifying that I and other intended to sue, and requesting clarification on ordinance.

I swear the foregoing under penalty of perjury,

/s/ Amalia Mendoza

Amalia A. Mendoza

8-9-23

DECLARATION OF AMALIA MENDOZA IN SUPPORT OF TRO - 5

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EXHIBIT A
DECLARATION OF AMALIA MENDOZA

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 42

REQUEST FOR REASONABLE ACCOMMODATION

CITY OF SAN RAFAEL

Date: 07-25-23

Person making request: AMALIA MENDOZA DOB: _____

This request is being made to

City Manager cristine.alloovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srpd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

I have a disability. My relevant disabilities are:

INCLUDING, NOT ECLUSIVE TO, POST TRAUMATIC STRESS DISORDER

The accommodation I am requesting is:

I NEED TO HAVE INDIVIDUAL HOUSING I DEEM SAFE
I NEED TO CAMP NEAR MULTIPLE PEOPLE AT NIGHT
SO I FEEL SAFE AND CAN SLEEP
I NEED TO BE ABLE TO CAMP NEAR WATER, BATHROOMS,
SHADE

How this accommodation is related to my disability (Example: I need x because I have mobility issues and x causes my symptoms to get worse):

I WILL NOT BE ABLE TO SLEEP

I need an accommodation is related to other needs (Example: I need to camp close to others because I am being stalked)

I'd like to file a police report for the social security checks that were stolen from me. I'd like to be able to camp where others camp in order to remain safe, and not have an episode as a result of my PTSD, as well as not being stalked at night, and to remain safe to sleep

How to contact me about this request: Phone/email c/o

Email: CampIntegritySanRafael@Yahoo.com

You are directed to speak to my advocate(s): _____

Other Contact Info:

Signature Amalia A Mendez
7-25-23

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EXHIBIT B

DECLARATION OF AMALIA MENDOZA

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 43

CITY OF SAN RAFAEL

REQUEST FOR SHELTER PLACEMENT/ACCOMMODATION REQUEST

Date: July _____, 2023

NAME: Amalia Ann Mendoza Age: _____

SINGLE, COUPLE, OTHER _____ GENDER F

THIS REQUEST IS MADE TO

City of San Rafael, City Manager cristine.alilovich@cityofsanrafael.org, Assistant City Manager and Director of Homeless Service, chris.hess@cityofsanrafael.org, City Attorney Rob Epstein <rob.epstein@cityofsanrafael.org>, Chief of Police, David Spiller <661@srpd.org>, Director of Public Works, Amy Miller <public.works@cityofsanrafael.org>

VEHICLE (circle one): Yes/No PET: YES/NO Number of Pets: N/A

Best way to contact me (email, camp, cell etc.) Robbie Pawelson

Backup Contact: CampIntegritySanRafael@Yahoo.com

Adequate Shelter For Me: (Check each that apply)

_____ Johnathan's Place, Congregate Shelter

_____ Johnathan's Place, Single Unit

_____ New Beginnings Center

_____ Permanent Housing - I Have Income / I Don't Have Income

_____ Motel or other single unit.

_____ Helen Vine Recovery Center or Other Medical Facility _____

_____ Other: _____

Request for Accommodation: I want to request a reasonable accommodation. Example- I need a single unit sleeping accommodation because I have PTSD and can't sleep in congregate shelter.

Amalia A. Mendoza
Signature

7-25-23

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EXHIBIT C

DECLARATION OF AMALIA MENDOZA

INDEX OF EXHIBITS IN SUPPORT OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF - 44

From:

Concerned Unhoused Residents of San Rafael
CampIntegritySanRafael@yahoo.com
[See Signature Page For Further Contact Information]

To:

Cristine Alilovich
City of San Rafael, City Manager
cristine.alilovich@cityofsanrafael.org,

Chris Hess
San Rafael Assistant City Manager and Director of Homeless Service,
chris.hess@cityofsanrafael.org,

Rob Epstein
San Rafael City Attorney
<rob.epstein@cityofsanrafael.org>,

David Spiller
San Rafael Chief of Police
<661@srpd.org>,

Amy Miller
San Rafael Director of Public Works
public.works@cityofsanrafael.org

July 27th 2023

VIA ELECTRONIC MAIL

Cease and Desist Letter and Query RE: SMC 19.50

Cease and Desist Implementation of Unconstitutional Ordinance

We are noticing you under Federal Rules Civil Procedure 65 of our intent to file a complaint and motion for TRO and preliminary injunction to stop the implementation of San Rafael Municipal Code 19.50 et seq.

We hope you rescind the ordinance and meet with us so that we do not have to bring this to court. If the ordinance is not rescinded by August 5th, we will have no choice but to seek injunctive relief, because the ordinance imperils all of our lives and our families.

The ordinance is facially unconstitutional for many reasons, including but not exclusive to:

1. Violating the Eighth Amendment for criminalizing status instead of criminalizing actual conduct.
2. Violating the Fourteenth Amendment Void-for-Vagueness Clause because none of us can understand what conduct will be criminalized and where it will be criminalized.
3. Violating the Fourteenth Equal Protection Clause for only criminalizing unhoused people for conduct that will not be penalized for people who have housing.
4. Violating the First Amendment Free Association Clause for criminalizing innocent association among unhoused people.
5. Violating the Fourteenth Amendment State Created Danger Clause for exposing unhoused people to loss of water, shade, and shelter that may result in injury or death in ways we otherwise would not have faced. Also, exposing women and domestic violence victims to greater levels of violence that we would not have not otherwise faced.
6. Violating the Americans with Disability Act for unreasonably burdening people with disabilities in a way likely to cause injury or death because people will lose access to food, water, and shelter.

Query RE: Public Property Where Camping Areas Are Permitted Under SMC 19.50

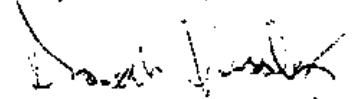
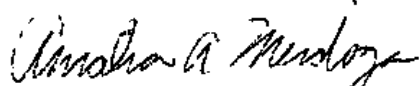
If you choose not to rescind the ordinance, then we request you provide:

1. The names/numbers of parcels of public land, or a map, where unhoused people will not be penalized for camping or having a camping area if SMC 19.50 goes into effect.
2. In the alternative, please inform us what parcels *are not* open space, parking garages, public facilities, public utility infrastructure, public right-of-way and side walks, or property listed under SMC 19.50.030.

Conclusion

We urge you to rescind the ordinance ASAP so that we can work on a solution together. We are residents of San Rafael and deserve your frank communication about the policies that effect our lives.

Truly yours,



7-25-23

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS SHALEETA BAYD, AMACIA MENDOZA, FLOYD BARAN, JEFF GROVE, CHRISTY COOK, ANKER AARDALEN, COURTNEY HUFF, DONALD HENSLEY, CAMP INTEGRITY

DEFENDANTS CRISTINE McLOUGH, CHRIS HESS, DAVID SPILLER, AMY MILLER, KATE COLN, ELI HILL, MAR. DEAN BUSH, CITY OF SAN RAFAEL, RACHEL KORYZ

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) BOB EPSTEIN.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for PTF and DEF for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with columns for CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, and OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- Original Proceeding, Removed from State Court, Remanded from Appellate Court, Reinstated or Reopened, Transferred from Another District (specify), Multidistrict Litigation-Transfer, Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversive): 42 USC 1983
Brief description of cause: CIVIL CONSTITUTIONAL ORDINANCE

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE YGR DOCKET NUMBER 4:23-CV-03804, 4:23-CV-01063

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE Aug 7, 2023 SIGNATURE OF ATTORNEY OF RECORD [Signature]