

**ORDINANCE NO. 1990**

**AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING TITLE 14 OF THE SAN RAFAEL MUNICIPAL CODE (ZONING) TO AMEND SECTION 14.04.040 (PROPERTY DEVELOPMENT STANDARDS (DR, MR, HR)), SECTION 14.05.030 (PROPERTY DEVELOPMENT STANDARDS (GC, NC, O, C/O, R/O, FBWC)), SECTION 14.16.030 (AFFORDABLE HOUSING), SECTION 14.16.190 (HEIGHT BONUS), SECTION 14.16.300 (SMALL LOTS), AND SECTION 14.28.040 (PUBLIC NOTICE AND HEARING)**

**THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:**

**DIVISION 1. AMENDMENTS TO MUNICIPAL CODE.**

1) Section 14.04.040 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

14.04.040 - Property development standards -Duplex Residential (DR ), Medium Density Residential (MR), High Density Residential (HR).

NA: Not applicable.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to other site development standards, Chapter 14.23, Variances, Chapter 14.24, Exceptions, for allowable adjustments to these standards, and Chapter 14.25, Environmental and Design Review Permits, for a listing of improvements subject to review (including addition of new units or additions of floor area to existing units) and design guidelines and criteria for development.

**Table 14.04.040**

	<b>DR</b>	<b>MR5</b>	<b>MR3</b>	<b>MR2.5</b>	<b>MR2</b>	<b>HR1.8</b>	<b>HR1.5</b>	<b>HR1</b>	<b>Additional Standards</b>
Minimum lot area (sq. ft.)	5,000/6,000 (corner)	6,000	6,000	6,000	6,000	6,000	6,000	6,000	
Minimum lot area/dwelling unit (sq. ft.) (Max. residential intensity)	2,500	5,000	3,000	2,500	2,000	1,800	1,500	1,000	(B), (C)
Minimum lot width (ft.)	50/60 (corner lot)	60	60	60	60	60	60	60	
Minimum yards									
Front (ft.)	15	15	15	15	15	15	15	15	(D), (E)

Side (ft.)	10% of lot width, min. 3', max. 5'	10	10	10	10	10% of lot width, min. 3', max. 5'	10% of lot width, min. 3', max. 5'	10% of lot width, min. 3', max. 5'	
Street side (ft.)	10	10	10	10	10	10	10	10	(E), (F), (G)
Side providing pedestrian access (ft.)	NA	15	15	15	15	12	12	12	(F), (N)
Rear (ft.)	10	5	5	5	5	5	5	5	(F), (H), (I)
Distance between res. structures									
No primary pedestrian access to structures (ft.)	NA	15	15	15	15	8	8	8	(N)
Primary pedestrian access to structures (ft.)	NA	20	20	20	20	20	20	20	
Maximum height of structure (ft.)	30	36	36	36	36	36	36	36	(J), (K)
Maximum lot coverage	40%	40%	50%	50%	50%	60%	60%	60%	
Minimum usable outdoor area (common and/or private)/Dwelling unit (sq. ft.)	200	200	200	200	200	150	150	100	(L)
Landscaping	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	50% front and street side yards	(M)

Parking	*	*	*	*	*	*	*	*	* Based on use. See Section 14.18.040.
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- (A) *Intentionally not used.*
- (B) The minimum lot area for a boarding house is five hundred (500) square feet per guest room.
- (C) A density bonus may be granted, as provided for in Section 14.16.030 (Density bonus).
- (D) Where two (2) or more lots in a block have been improved with buildings, the minimum required shall be standard, or the average of improved lots on both sides of the street for the length of the block, whichever is less.
- (E) Where there is a driveway perpendicular to the street, any garage built after January 1, 1991, shall be set back twenty feet (20').
- (F) Parking and maneuvering areas, excluding access driveways, shall be prohibited in all required yards, per Section 14.18.200 (Location of parking and maneuvering areas) of this title.
- (G) In the DR and MR district, on a reverse corner lot, the rear twenty feet (20') of the street side shall have a fifteen-foot setback.
- (H) In the MR or HR districts, where development is adjacent to a single-family district, the rear yard setback shall be ten feet (10').
- (I) In order to provide adequate privacy and sunlight, additional separation may be required through design review.
- (J) The height limit in the Latham Street neighborhood ranges from thirty feet (30') to thirty-six feet (36'). See the downtown height map for lot-specific information.
- (K) A height bonus may be granted, as provided for in Section 14.16.190 (Height bonus).
- (L) Private yard areas shall have a minimum dimension of six feet (6'). In the HR districts, common indoor area suitable for recreational uses may be counted toward the usable outdoor area requirement.
- (M) Where a driveway is located in a side yard, a minimum of three feet (3') of buffer landscaping shall be provided between the driveway and side property line. The required rear yard shall be landscaped to provide a buffer.
- (N) Setback distances apply to areas that provide a primary pedestrian access only.

2) Section 14.05.030 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

14.05.030 - Property development standards (GC, NC, O, C/O, R/O, FBWC).

NR: Not required unless otherwise noted in Additional Standards. NA: Not applicable.

Note: See Chapter 14.16, Site and Use Regulations, for additional regulations pertaining to floor area ratio, and site development standards. See Chapter 14.23, Variances, and Chapter 14.24, Exceptions, for allowable adjustments to these standards, and Chapter 14.25, Environmental and Design Review Permits, for a listing of improvements subject to review and design guidelines and criteria for development.

**Table 14.05.030**

	GC	NC	O	C/O	R/O	FBWC	Additional Standards
Minimum lot area (sq. ft.)	6,000	6,000	7,500	2,000/ building	6,000	6,000	
Minimum lot area/dwelling unit (sf) (Max. residential intensity)	1,000	1,800	1,000	1,000	1,000	1,000	(A), (O)
Floor area ratio (Max. nonresidential intensity)	*	*	*	*	*	*	* See Section 14.16.150
Minimum lot width (ft.)	60	60	60	NR	60	60	
Minimum yards:							
Front (ft.)	NR	NR	20	NR	NR	NR	(B)
Side (ft.)	NR	NR	6	NR	NR	NR	(B)
Street side (ft.)	NR	NR	10	NR	NR	NR	(B)
Rear (ft.)	NR	NR	20	NR	NR	NR	(B)
Maximum height of structure (ft.)	36	36 feet; 30 feet for a residential-only building	36	36	36	36	(C), (D), (E), (F), (G), (H)
Maximum lot coverage	NR	NR	40%	NR	NR	NR	(P)
Minimum landscaping	15%	10%	25%	NR	10%	15%	(I), (J), (K), (L)
Usable outdoor area	NR	NR	NR	NR	NR	NR	(M)
Parking	*	*	*	*	*	*	* Based on use. See Section 14.18.040

- (A) There is no minimum lot area requirement for a boarding house.
- (B) Where the frontage of a block is partially in an R district, the front yard shall be the same as required for that R district, and when the side and/or rear of the lot(s) abuts an R district, the respective side and/or rear yard shall be ten feet (10'). Parking or maneuvering shall be permitted within the required side and rear yards provided that a minimum six-foot (6') wide landscape buffer area, excluding curbs, is provided adjacent to the side and rear property lines.
- (C) Exceptions may be granted for a height above thirty-six feet (36'), subject to the provisions of Chapter 14.24, Exceptions.
- (D) Hotels have a four (4) story fifty-four-foot (54') height limit. A one-story twelve-foot (12') height bonus may be approved as part of a design review permit by the planning commission if it finds that the hotel will provide a significant community benefit, and the design is consistent with this title.
- (E) Repealed 3/18/96.
- (F) Buildings existing or approved as of January 1, 1987 which are more than three (3) stories in height shall not be considered nonconforming, and are listed in Section 14.16.040, Buildings over three (3) stories.
- (G) See general plan downtown height map for lot-specific height limits.
- (H) A height bonus may be permitted in residential development as provided for in Section 14.16.190, Height bonus.
- (I) Where the frontage of the lot(s) is adjacent to or across from an R district, fifty percent (50%) of the front yard shall be landscaped. Where the side yard abuts an R district, a minimum three feet (3') of buffer landscaping must be provided. Where the rear of the lot abuts an R district, ten feet (10') of buffer landscaping must be provided.
- (J) In the GC district, a minimum fifteen feet (15') of the front setback must be landscaped. Landscaped portions of the public right-of-way may be included, subject to approval by the hearing body.
- (K) For parking lot landscaping, see Section 14.18.160, Parking lot screening and landscaping.
- (L) A landscaped amenity area for employees and the public is encouraged in office and commercial projects.
- (M) Provision of usable outdoor area is encouraged in residential development as part of a mixed-use project.
- (N) *Intentionally not used.*
- (O) A density bonus may be granted, as provided for in Section 14.16.030.
- (P) The maximum lot coverage restriction established for the office (O) district shall not apply to solar panels installed over existing paved parking spaces; consistent with Section 14.16.307.

3) Section 14.16.030 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

14.16.030 - Affordable housing requirement.

- A. Purpose & Intent. The purpose of this section is to enhance the public welfare and ensure that further residential and nonresidential development projects within the city contribute to the attainment of affordable housing goals and requirements by promoting and increasing, through actual construction and/or alternative equivalent actions as provided for in this section, the development of rental and ownership housing units for very low, low and moderate income households.
- B. General Requirements—Residential Development Projects. Any new residential development project with dwelling units intended or designed for permanent occupancy shall be developed to provide affordable housing units to very low, low and moderate income households in perpetuity unless, in its sole discretion and upon a finding of need pursuant to the Guidelines for the Administration of the Affordable Housing Trust Fund, as adopted and amended from time to time by the City Council, the City Council reduces the time frame to not less than forty (40) years.
  - 1. Exemptions. This provision shall be imposed on all residential development projects except that the following shall be exempt from the provisions of this section:
    - a. Projects that are the subject of development agreements in effect with the city and approved prior to the effective date of the city council ordinance;
    - b. Projects where a building permit application has been accepted as complete by the city prior to the effective date of this Ordinance; however, any extension or modification of such approval or permit after such date shall not be exempt;
    - c. Any building that is damaged or destroyed by fire or other natural catastrophe if the rebuilt square footage of the residential portion of the building does not increase upon reconstruction;
    - d. Any residential development project of one (1) single family structure; and
    - e. Second units approved by the city of San Rafael pursuant to Section 14.16.285 of the San Rafael Municipal Code.
  - 2. Modification of Certain Approved Projects—Notwithstanding anything to the contrary in this Ordinance, for any project that, as of the effective date of this Ordinance, has received final City approval but has not yet commenced construction, the project applicant may apply to the City for a modification of the affordable housing requirements of the approved project where the modified affordable housing components of the project would be consistent with the requirements of this Ordinance and with the Guidelines for the Administration of the Affordable Housing Trust Fund, as adopted and amended from time to time by City Council resolution. The request for modification shall be approved the decision-making body that approved the project.
  - 3. Affordable Housing Units—Percentage Required. Residential development projects shall provide affordable housing units as described in the policies and

procedures specified in the San Rafael City Council's Guidelines for the Administration of the Affordable Housing Trust Fund, as adopted, and amended from time to time by City Council resolution, and any new residential development project shall comply with such policy.

- C. Density Bonus and Incentives. Upon a separate application by an applicant for a residential development project of five (5) or more units that includes an eligible affordable housing project, including such residential development projects that include housing for transitional foster youth, qualified student housing, land donation, construction of a child care facility, or a qualified senior citizen housing development, shall be eligible for a density bonus, as well as an additional concession or incentive or waiver/reductions of development standards, consistent with the requirements of California Government Code Section 65915 and as set forth by resolution adopted by the City Council from time to time.
- D. General Requirements—Nonresidential Development Projects.
  - 1. Application. An affordable housing requirement is hereby imposed on all developers of nonresidential development projects, including all construction of additional square footage to existing nonresidential developments and conversion of residential square footage to nonresidential use, subject to the following exceptions:
    - a. Any project involving new construction under five thousand (5,000) square feet;
    - b. Residential components of a mixed-use project, which shall be subject to the requirements of subsection B of this section;
    - c. A mixed-use project where the number of affordable units equals or exceeds the housing required by subsection (1)(2) of this section for the gross square footage of nonresidential uses;
    - d. Projects where a building permit application has been accepted as complete by the city prior to January 5, 2005; however, any extension or modification of such approval or permit after such date shall not be exempt;
    - e. Projects that are the subject of development agreements in effect prior to January 5, 2005 where such agreements specifically preclude the city from requiring compliance with this type of affordable housing program;
    - f. Any nonresidential building that is damaged or destroyed by fire or other natural catastrophe if the rebuilt square footage of the nonresidential portion of the building does not increase upon reconstruction;
    - g. Project for which no nexus can be established between the proposed nonresidential development and an increase in the demand for affordable housing.
  - 2. Number of Affordable Units Required. Proposed nonresidential development projects shall provide twenty percent (20%) of the total number of residential units needed to provide housing for project employees in very low-, low- and moderate-income households, as set forth in Table 14.16.030-3 of this section. Any decimal fraction greater than 0.50 shall be interpreted as requiring one additional dwelling unit. For uses not listed in Table 14.16.030-3 of this section, the community

development director shall determine the number of affordable units required based on comparable employment densities to uses listed. In making such a determination, the decision of the community development director shall be based on data concerning anticipated employee density for the proposed project submitted by the applicant, employment surveys or other research on similar uses submitted by the applicant or independent research, and/or such other data the director determines relevant.

**Table 14.16.030-3**  
**Number of New Very low, Low and Moderate**  
**Income Units Required for New**  
**Nonresidential Development**

Development Type	Number of New Very low-, Low- and Moderate-Income Units (per 1,000 square feet of gross floor area <sup>1</sup> )
Office <sup>2</sup> or Research and Development uses	0.03
Retail, Restaurant or Personal Service uses	0.0225
Manufacturing or Light Industrial uses	0.01625
Warehouse uses	0.00875
Hotel or motel uses <sup>3</sup>	0.0075

1 Floor area excludes all areas permanently used for vehicle parking.

2 Includes professional, business and medical offices.

3 Accessory uses to a hotel or motel, such as restaurant, retail and meeting facilities shall be subject to requirements for a retail use.

3. Provision of Units or In-lieu Fee. Required affordable housing units shall be provided on the same site as the proposed nonresidential development, at an off-site location within the city, through dedication of suitable real property for the required housing to the city, or through payment of an in-lieu fee, at the discretion of the planning commission or the city council. The planning commission or city council may accept off-site units or an in-lieu fee if it is determined that inclusion of the required housing units within the proposed nonresidential development is not reasonable or appropriate, taking into consideration factors including, but not

limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments; or where the nature of the surrounding land uses is incompatible with residential uses in terms of noise or other nuisances, health or safety hazards or concerns. Where the application of the affordable housing requirement in Section 14.16.030.B results in less than one (1) unit or one (1) or more affordable housing unit and a fractional unit, the applicant may choose to pay an in-lieu fee for the fractional unit without the required findings noted above. Affordable housing units provided as part of the proposed nonresidential development or at an off-site location shall meet the requirements of Section 14.16.030.B and I and shall be completed prior to or concurrent with the completion of construction of the proposed nonresidential development, as the conditions of project approval shall specify.

4. Calculation and Payment of In-lieu Fee. The amounts and calculation of the housing in-lieu fee shall be based on the following:

In-lieu fees shall be calculated as a percentage of the projected construction costs of the units. Construction costs of the units shall mean the estimated cost per square foot of construction, site development and land costs and permits and fees, as established by standard construction cost indices and/or surveys of local development projects such fees shall be established by resolution of the city council, as amended from time to time. Unless otherwise preempted by law, or otherwise approved by the planning commission or city council, the in-lieu fee shall be paid prior to the issuance of a building permit for the proposed project.

- E. Housing In-Lieu Fee Fund. The housing in-lieu fees shall be placed in a segregated citywide housing in-lieu fee account. The funds in the housing in-lieu fee account, along with any interest earnings accumulated thereon, shall be used solely to increase and expand the supply of housing affordable to very low-, low- and moderate-income households, including, but not limited to, the following:
  1. Design and construction of housing affordable to households of very low, low- and moderate-income households, including costs associated with planning, administration and design;
  2. Acquisition of property and property rights, including acquisition of existing housing units and the provision of long-term affordability covenants on those units;
  3. Other actions that would increase the supply of housing affordable to very low, low- and moderate-income households;
  4. Costs of program development and ongoing administration of the housing fund program;

5. Expenditures from the housing in-lieu fee fund shall be authorized solely by the city council and controlled and paid in accordance with general city budgetary policies.

F. Enforcement. The city attorney is authorized to abate violations and to enforce the provisions of this section and all implementing regulatory agreements and resale controls placed on affordable housing units, by civil action, injunctive relief, and/or other proceeding or method permitted by law. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the city from other remedy or relief to which it otherwise would be entitled under law or equity.

4) Section 14.16.190 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

14.16.190 - Height bonus.

A. Downtown Height Bonuses. A height bonus may be granted by a use permit approved by the planning commission in the following downtown zoning districts. No more than one height bonus may be granted for a project.

1. In the Fourth Street retail core, a twelve-foot (12') height bonus for any of the following:
  - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing).;
  - b. Public courtyards, plazas and/or passageways, with the recommendation of the design review board that the public improvements are consistent with downtown design guidelines;
  - c. Public parking, providing it is not facing Fourth Street and it is consistent with the downtown design guidelines.
2. In the Lindaro district, on lots south of Second Street and fronting Lindaro Street, a twenty-four-foot (24') height bonus for any of the following:
  - a. Park area adjacent to Mahon Creek, accessible to the public and maintained by the property owner;
  - b. Community facility, ten thousand (10,000) square feet or more in size. The facility must be available to the public for cultural and community events and maintained and operated by the property owner.
3. In the Second/Third mixed use east district, a twelve-foot (12') height bonus for any of the following:
  - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing).;
  - b. Public parking, providing it is consistent with the downtown design guidelines;
  - c. Skywalks over Second or Third Streets, with the approval of the traffic engineer, and the recommendation of the design review board;

- d. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe.
4. In the West End Village, a six-foot (6') height bonus for any of the following:
    - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
    - b. Public parking, providing it is consistent with the downtown design guidelines;
    - c. Public passageways, with the recommendation of the design review board that the public passageway serves an important public purpose and is attractive and safe.
  5. In the Second/Third mixed use west district, on lots located on the north side of Third Street and east of C Street, an eighteen-foot (18') height bonus for the following:
    - a. Public parking, providing it is consistent with the downtown design guidelines.
- B. Lincoln Avenue Height Bonus. A twelve-foot (12') height bonus may be granted for affordable housing on Lincoln Avenue between Mission Avenue and Hammondale Ct., on lots greater than one hundred fifty (150') in width and twenty thousand (20,000) square feet in size, consistent with Section 14.16.030 (Affordable housing).
  - C. Marin Square Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing at the Marin Square and Gary Place properties, consistent with Section 14.16.030 (Affordable housing).
  - D. North San Rafael Town Center Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing in the North San Rafael Town Center, consistent with Section.
  - E. Hotel Height Bonus. A height bonus of twelve feet (12') may be granted for a hotel provided the planning commission finds that the hotel will be a significant community benefit and the design is consistent with design review board recommendations.
  - F. Residential Development Height Bonus. A residential development project with 100% of the total units available to lower income households, and located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, shall be eligible for a height increase of up to 33 feet. This bonus shall not be combined with any other height bonus listed above.

5) Section 14.16.300 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

14.16.300 - Small lots.

Development of small lots shall be permitted in accordance with all the requirements of the district. Such development shall be considered conforming with the following additional limits in residential districts:

- A. No small lot shall be further reduced in area or width, except as required for public improvements.

- B. Small lots which are contiguously owned are subject to the merger provisions of the State Subdivision Map Act.
- C. This section does not apply to the PD district.

6) Section 14.28.040 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

14.28.040 - Scheduling and notice for public hearing.

- A. Public Hearing Required. The planning commission or city council, as the case may be, shall hold a public hearing on an appeal. At the public hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant and any other interested party.
- B. Public hearing scheduled. Following the timely filing of an appeal, the appeal shall be scheduled for the next available planning commission or city council meeting, as the case may be, and allowing sufficient time for giving notice pursuant to subsection (C) of this section and State law.
- C. Public hearing notice. Notice of public hearings shall be given in the manner required for the decision being appealed as set forth in Section 14.29.020 of this Code.

**DIVISION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance or its implementation would have a significant effect on the environment (14 Cal. Code Regs. Section 15061(b)(3)).

**DIVISION 3. SEVERABILITY.**

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

**DIVISION 4. PUBLICATION; EFFECTIVE DATE.**

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 thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers 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.



KATE COLIN, Mayor

ATTEST:



LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1990 was introduced at a regular meeting of the City Council of the City of San Rafael on Tuesday the 16<sup>th</sup> day of February 2021, and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Hill, Llorens Gulati & Mayor Kate

NOES: Councilmembers: Kertz

ABSENT: Councilmembers: None

and will come up for adoption as an Ordinance of the City of San Rafael at a regular meeting of the City Council to be held on the 1<sup>st</sup> day of March, 2021.



LINDSAY LARA, City Clerk