

ORDINANCE NO. 2021

AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL AMENDING TITLE 12 (BUILDING REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL, TO ADOPT BY REFERENCE THE 2022 EDITION OF THE CALIFORNIA BUILDING CODE, THE CALIFORNIA RESIDENTIAL CODE, THE CALIFORNIA MECHANICAL CODE, THE CALIFORNIA PLUMBING CODE, THE CALIFORNIA ELECTRICAL CODE, THE CALIFORNIA EXISTING BUILDING CODE, THE CALIFORNIA GREEN BUILDING CONSTRUCTION STANDARDS CODE, THE CALIFORNIA HISTORICAL BUILDING CODE, THE CALIFORNIA ENERGY CODE, AND THE CALIFORNIA REFERENCED STANDARDS CODE, WITH APPENDICES AND AMENDMENTS HEREIN; TO ADOPT BY REFERENCE THE 2021 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND THE INTERNATIONAL SWIMMING POOL AND SPA CODE, WITH AMENDMENTS HEREIN; ADOPTING ADMINISTRATIVE AND PROGRAM PROVISIONS FOR THE CODES; ADOPTING NEW CHAPTER 12.350 WITH ADMINISTRATIVE AND PROGRAM REGULATIONS ON GATE SAFEGUARDS; AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO THE CODES.

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

DIVISION 1. AMENDMENTS TO TITLE 12 OF THE MUNICIPAL CODE.

Section 1. Adoption of and Amendments to Construction Codes.

Section 12.100.010 of the Municipal Code of the City of San Rafael is hereby replaced in its entirety and amended to read as follows:

12.100.010 Adopted codes. The following recognized codes are hereby adopted by City of San Rafael together with the supplements, listed changes, additions and deletions as noted:

1. 2022 Edition, California Building Code ("CBC"), chapters 2 through 28, 30, 31, 32, 33, 35 and Appendices C, H, I, N and O.
2. 2022 Edition, California Electrical Code ("CEC").
3. 2022 Edition, California Energy Code ("CEgC").
4. 2022 Edition, California Existing Building Code ("CEBC"), chapters 2 through 16 and Appendices.
5. 2022 Edition, California Green Building Construction Standards Code ("CalGreen"), chapters 1 through 8 and Appendices A4 and A5.
6. 2022 Edition, California Historical Building Code ("CHBC")
7. 2022 Edition, California Mechanical Code ("CMC") chapters 2 through 17.
8. 2022 Edition, California Plumbing Code ("CPC"), chapters 2 through 17 and Appendices A, C, D, and I.
9. 2022 Edition, California Referenced Standards Code.
10. 2022 Edition, California Residential Code ("CRC"), chapters 2 through 10, chapter 44, and Appendices H, J, K, O, Q, R, S, T, and X.
11. 2021 Edition, International Property Maintenance Code ("IPMC") chapters 1 through 8 and Appendix A.
12. 2021 Edition, International Swimming Pool and Spa Code ("ISPSC"), chapters 2 through 11.

Section 12.105.050 of the Municipal Code of the City of San Rafael is hereby amended to read as follows. Deletions are in strikethrough, and additions are in underline:

12.105.050 - Expiration. All building permits for the construction of buildings issued by the building official under the provisions of this code and the SRMC shall expire and become invalid ~~one hundred eighty (180) days~~ 24 months after the date of issuance. The building official is authorized to grant, in writing, one (1)- or more extensions of time, for periods not more than ~~one hundred eighty (180) days~~ 24 months each. The extension shall be requested in writing and justifiable cause demonstrated. All other permits including permits issued for ~~grading, fences, equipment replacements,~~ and utilities, shall expire and become invalid ~~one hundred eighty (180) days~~ after the date of issuance.

All work authorized by a permit that has expired must stop and may only continue upon application for and approval of either a renewal of the expired permit or a new permit. Renewal of a permit is prohibited if the work authorized by a permit is not commenced and inspected within the permit period after issuance or if any permit is not renewed within the renewal grace period after expiration.

Exception: The building official may allow an invalid permit to be renewed only upon a determination by the building official that unforeseen and extraordinary circumstances are established by the applicant and the other provisions of this Section 12.105.050 are satisfied.

12.105.050.1 New permits. Any new permit issued for the same purpose will require a new application and payment of all permit fees as required by this code existing at the time of application for new permit. New permits shall be governed by this code and any other applicable policy, regulation or law, local, state or federal, existing at the time of application for new permit.

12.105.050.2 Renewals. Renewals of an expired permit must be applied for within the renewal grace period from the permit expiration date and all additional fees paid. A renewal may be granted in writing by the building official only if the building official is satisfied that justifiable cause exists for a renewal or a site inspection by the building official establishes that all work is within the scope and is authorized by the and the work is not complete. Renewals shall extend the time of the permit from the date of expiration of the original permit or the last renewal. The renewals shall have the same duration as the original permit.

Exceptions: If the building official is satisfied with proof from the applicant of his active military service that prevented timely completion of the authorized work, the building official may grant a one-time extension for a reasonable period of time not to exceed ~~two (2)~~ years at no cost to the applicant. If the authorized work is not completed within this extension of time, a renewal of the original permit, if possible hereunder, or a new permit will be required pursuant to the provisions of this code.

If at the time of expiration of the permit or its renewal the authorized work is in the final inspection stage as defined in Chapter 12.109, the building official may grant a one (1)-time ~~ninety (90)~~ 90-day extension at no cost. If work under this extension is not completed within the ~~ninety (90)~~ days, a renewal of the original permit, if possible hereunder, or a new permit will be required pursuant to the provisions of this code.

12.105.050.3 Renewal limit. Permits may be renewed ~~three (3)~~ times. After the expiration of the third renewal, the applicant shall apply for a new permit.

12.105.050.4 Renewal Grace Period. Building permits shall have a grace period of not more than ~~twelve (12)~~ months from the expiration date of the permit. All other permits including ~~grading, fences, equipment replacements,~~ and utilities, shall have a grace period of not more than ~~three (3)~~ months from the expiration date of the permit.

Temporary permits for structures and uses shall not have a grace period and any extension to the permit shall comply with Chapter 12.107.

Section 12.109.040 of the Municipal Code of the City of San Rafael is hereby amended to read

as follows. Deletions are in strikethrough, and additions are in underline:

12.109.040 Plan review fees. When submittal documents are required by this code a plan review fee shall be paid at the time of submittal. The review fee shall be ~~a percentage of the building permit fees~~ in accordance with the Master Fee Schedule Resolution as adopted by the San Rafael City Council.

Section 12.109.050 of the Municipal Code of the City of San Rafael is hereby amended to read as follows. Deletions are in strikethrough, and additions are in underline:

12.109.050. ~~Investigative~~ Investigation fee. An investigation fee shall be collected in advance, whether or not a permit is then or subsequently issued, when any person ~~who~~ commences any work on a site, building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits ~~further set forth Section 114 hereof.~~ The investigation fee is further described in Chapter 12.114 hereof.

Chapters 12.200, 12.210, 12.220, 12.230, 12.235, 12.240, 12.245, 12.250, 12.255, 12.260, and 12.265 of the Municipal Code of the City of San Rafael are hereby replaced in their entirety and amended to read as follows:

CHAPTER 12.200 - CALIFORNIA BUILDING CODE AMENDMENTS

12.200.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.200.020 Amendments. The 2022 California Building Code is amended or modified as follows:

Amend Section 202 to read as follows:

The definition of "Kitchen or Kitchenette" is deleted and replaced in its entirety to read as follows:

KITCHEN. An area in which the preparation of food for eating occurs (that has provisions for cooking or heating of food; washing and storing of dishware and utensils; and refrigeration and storing of food).

The definition of "Substantial Remodel" is added to read as follows:

SUBSTANTIAL REMODEL. Substantial remodel shall mean the alteration of any structure which combined with any additions to the structure, performed within any three (3) year period, affects a floor area which exceeds fifty percent (50%) of the existing floor area of the structure. When any changes are made in the building, such as walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for purposes of applying this definition. This definition does not apply to the replacement and upgrading of residential roof coverings or exterior wall finishes.

Amend Section 903.2 to read as follows:

903.2 Where Required. Approved automatic fire sprinkler systems ~~in new buildings and structures~~ shall be provided in the locations described in Sections 903.2.1 through 903.2.12 and Sections 903.2.14 through 903.2.21 and in all of the following:

1. Newly constructed buildings or facilities, except detached Group U occupancies not more than one thousand (1,000) square feet in floor area and provided with exterior wall and opening protection as per Table 602 of the California Building Code.
2. Newly created, attached, second dwelling units which meet the definition of a substantial remodel.
3. All other existing buildings, fire sprinkler systems may be required by the fire chief in accordance with the following:
 - 3.1. All buildings where improvements occur during any three (3) year period which cumulatively meet the definition of a substantial remodel.
 - 3.2. All buildings, except R-3 occupancies, in excess of three thousand (3,000) square feet which have more than ten percent (10%) floor area added within any three (3) year period. Exceptions may be granted by the fire chief when alternate means of protection are installed as approved by the fire code official.
 - 3.3. A change in the use of a building that results in a higher fire or life safety hazard when the square footage of the area changing use is more than 50% of the square footage of the existing building.
 - 3.4. Where fire sprinklers are required by provisions of this code, they shall be extended throughout the building.
4. All public storage facilities. Exceptions may be granted by the fire chief when alternate means of protection are installed as approved by the fire code official
5. All tunnels used for the transportation of people or any type of vehicle.

The requirements for fire sprinkler systems in this code section are not meant to disallow the provisions for area increase, height increase, or fire-resistive-rated substitution if otherwise allowed by this code.

Exception [Unchanged.]

Sections 903.2.1 through 903.2.17. [Unchanged.]

Amend Section 903.2.18 by deleting the exception.

Section 903.2.19 through 903.2.21. [Unchanged.]

Amend Section 909.2 by adding the following sentence at the end of the paragraph:

Replacement of an existing smoke alarm which is hardwired, and/or interconnected shall be made with an alarm of the same functionality.

Amend Section 1015.2 by adding the following concluding sentence:

Guards are also required at waterfront bulkheads, fixed piers and gangways.

Add Sections 1015.8.2 and 1015.8.3 to read as follows:

1015.8.2 Existing Hotels. The provisions of sections 1015.8 shall apply retroactively to all existing hotels.

1015.8.3 Clear area adjacent to hotel window opening. There shall be no furniture, fixed or

moveable, placed within thirty-six inches (36") of any openable portion of a window. Hotels shall also provide notice to prospective guests of this requirement.

Amend Section 1505.1 by deleting the last sentence and the referenced Table 1505.1.

Exception [Unchanged]

Section 1505.1.1 [Unchanged]

Amend Section 1505.1.2 to read as follows:

1505.1.2 Roof coverings within all other areas. The entire roof covering of every existing structure, where more than 50% of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class ~~C~~A.

All roof coverings that are not at least Class A shall be a fire-retardant roof covering that is at least Class A by May 31, 2027.

Amend Section 1505.1.3 to read as follows:

1505.1.3 Roofing requirements in a Wildland-Urban Interface Fire Area. Roofing requirements for structures located in a Wildland-Urban Interface Fire Area shall be a fire-retardant roof covering that is least Class A and shall also comply with Section 705A.

Add Section 1807.4 to read as follows:

1807.4 Wooden retaining walls. Wooden retaining walls may not be used to support any building surcharge or vehicular way. In addition, wooden retaining walls shall not be employed to retain soils above or below a building where failure of the wall may subject the building to damage.

Amend Section 3110 to read as follows:

Section 3110 Automatic Vehicular Gates

3110.1 General. Automatic vehicular gates shall comply with the requirements of Sections 3110.2 and 3110.3 and other applicable sections of this code. All other gates shall comply with Sections 3110.4 and other applicable sections of this code.

3110.2 Vehicular Gates Intended for Automation. Vehicular gates intended for automation shall be designed, constructed and installed to comply with the requirements of ASTM F2200.

3110.3 Vehicular Gate Openers. Vehicular gate openers, where provided, shall be listed in accordance with UL 325.

3110.4 All Other Gates. Any gate more than 48 inches (1219 mm) in width or more than 84 inches (2134 mm) in height shall meet the requirements of ASTM F1184, shall be installed per the manufacturer's recommendations, and shall be designed, constructed, and installed to meet all of the following:

1. Gate shall not fall over more than 45 degrees from a vertical plane when the gate is detached from supporting hardware.
2. Gate shall be balanced and not move under the gate's own weight or by gravity.
3. Rolling wheels shall be covered.
4. Gate shall have positive stops.

Amend Section 3202.2.3 to read as follows:

3202.2.3 Awnings. The vertical clearance from the public right-of-way to the lowest part of any awning, including valances, shall be not less than ~~7 feet (2134 mm)~~ 8 feet (2439 mm).

CHAPTER 12.210 - CALIFORNIA ELECTRICAL CODE AMENDMENTS

12.210.010 No amendment. The 2022 California Electrical Code is not amended or modified.

CHAPTER 12.220 - CALIFORNIA ENERGY CODE AMENDMENTS

12.220.010 No amendment. The 2022 California Energy Code is not amended or modified.

CHAPTER 12.230 - CALIFORNIA EXISTING BUILDING CODE AMENDMENTS

12.230.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.230.020 Amendments. The 2022 California Existing Building Code is amended or modified as follows:

Add Sections 505.2.1 and 505.2.2 to read as follows:

505.2.1 Existing Hotels. The provisions of section 406.2 shall apply retroactively to all existing hotels.

505.2.2 Clear area adjacent to hotel window opening. There shall be no furniture, fixed or moveable, placed within thirty-six inches (36") of any operable portion of a window. Hotels shall also provide notice to prospective guests of this requirement.

CHAPTER 12.235 - CALIFORNIA GREEN BUILDING CONSTRUCTION STANDARDS CODE AMENDMENTS

12.235.010 No amendment. The 2022 California Green Building Construction Standards Code is not amended or modified.

CHAPTER 12.240 - CALIFORNIA HISTORICAL BUILDING CODE AMENDMENTS

12.240.010 No amendment. The 2022 California Historical Building Code is not amended or modified.

CHAPTER 12.245 - CALIFORNIA MECHANICAL CODE AMENDMENTS

12.245.010 No amendment. The 2022 California Mechanical Code is not amended or modified.

CHAPTER 12.250 - CALIFORNIA PLUMBING CODE AMENDMENTS

12.250.010 No amendment. The 2022 California Plumbing Code is not amended or modified.

CHAPTER 12.255 - CALIFORNIA RESIDENTIAL CODE AMENDMENTS

12.255.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.255.020 Amendments. The 2022 California Residential Code is amended or modified as follows:

Amend Section R202 to read as follows:

The definition of "Kitchen" is deleted and replaced in its entirety to read as follows:

KITCHEN. An area in which the preparation of food for eating occurs (that has provisions for cooking or heating of food; washing and storing of dishware and utensils; and refrigeration and storing of food).

The definition of "Substantial Remodel" is added to read as follows:

SUBSTANTIAL REMODEL. Substantial remodel shall mean the alteration of any structure which combined with any additions to the structure, performed within any three (3) year period, affects a floor area which exceeds fifty percent (50%) of the existing floor area of the structure. When any changes are made in the building, such as walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for purposes of applying this definition. This definition does not apply to the replacement and upgrading of residential roof coverings or exterior wall finishes.

Delete exception to Section R313.1 and amend Section R313.1 to read as follows:

R313.1 Townhouse automatic fire sprinkler systems. An automatic sprinkler system shall be installed in all newly constructed townhouses and in existing townhouses where alterations and/or additions to the existing structure, performed over any 3-year period, qualify as a "Substantial Remodel" as defined in this code. Any addition to a building with an existing fire sprinkler system shall have that system extended to the new portions of the building irrespective of the size of the addition.

R313.1.1 [Unchanged]

Amend Section R313.2 to read as follows:

R313.2 One-and two-family dwellings automatic fire systems. An automatic sprinkler system shall be installed in all newly constructed one- and two-family dwellings and in existing one- and two-family dwellings where alterations and/or additions to the existing structure, performed over any 3-year period, qualify as a "Substantial Remodel" as defined in this code. Any addition to a building with an existing fire sprinkler system shall have that system extended to the new portions of the building irrespective of the size of the addition.

R313.2.1. [Unchanged]

Amend Section R313.3.1.2 by deleting exception #4.

Amend Section R314.7.2 by adding the following:

Smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that no longer function shall be replaced. Replacement of an existing smoke alarm which is hardwired, and/or interconnected shall be made with an alarm of the same functionality.

Amend Section R902.1.2 to read as follows:

R902.1.2 Roof coverings in all other areas. The entire roof covering of every existing structure, where more than 50% of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class C-A and shall also comply with Section R337.5.

All roof coverings that are not at least Class A shall be a fire-retardant roof covering that is at least Class A by May 31, 2027.

Amend Section R902.1.3 to read as follows:

R902.1.3 Roofing requirements in a Wildland-Urban Interface Fire Area. Roofing requirements for structures located in a Wildland-Urban Interface Fire Area shall be a fire-retardant roof covering that is at least Class A and shall also comply with Section R337.5.

CHAPTER 12.260 – INTERNATIONAL PROPERTY MAINTENANCE CODE AMENDMENTS

12.260.010 General. For purpose of this Chapter only:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.260.020 Amendments. The 2021 International Property Maintenance Code is amended or modified as follows:

Delete Sections 101.1, 103, 104, 106, 107, and 108.

Amend Section 111.4 to read as follows:

111.4 Notice. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Section 111.4.1 and 111.4.2 1.08.060 of the San Rafael Municipal Code to the owner or the owner's authorized agent, for the violation as specified in this code. Notices for condemnation procedures shall comply with this section.

Delete Section 111.4.1 and 111.4.2.

Amend Sections 112.2, 112.3 and 112.4 to read as follows:

112.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official ~~shall~~ may order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

112.3 Closing streets. When necessary for public safety, the code official ~~shall~~ may temporarily close structures and close or order the authority having jurisdiction to close, sidewalks, streets, public

ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

112.4 Emergency repairs. For the purposes of this section, the code official ~~shall~~may employ the necessary labor and materials to perform the required work as expeditiously as possible.

Amend Section 113.1 to change "two years" to "one year" in the first sentence.

Amend Section 113.2 and 130.3 to read as follows:

113.2 Notices and orders. Notices and orders shall comply with ~~Section 111.4~~ Chapter 1.46 of San Rafael Municipal Code.

113.3 Failure to comply. If the owner of a premises or owner's authorized agent fails to comply with a demolition order within the time prescribed, the code official ~~shall~~may cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Amend Section 202 to read as follows:

The definition for "Code Official" is added as follows:

CODE OFFICIAL. Where used in this code, the term code official shall mean the code enforcement supervisor or the building official of the City of San Rafael, and their designees.

Amend Section 302.4 to read as follows:

302.4 Weeds. Premises and exterior property shall be maintained free from weeds or plant growth in excess of 6 inches tall. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided however, this term shall not include cultivated flowers and gardens. [Rest of section to remain unchanged.]

Amend Section 304.14 to read as follows:

304.14 Insect Screens. ~~During the period from [DATE] to [Date] every~~ Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception [Unchanged.]

Amend Section 308.2.2 to add these words to the end of the sentence:

or securing the doors in an approved manner.

Amend Section 308.3.1 by adding the following:

Every person maintaining or using any solid waste can or receptacle shall keep the same clean and sanitary.

Amend Section 308.3.2 by adding the following:

Within all residential districts in the city, no person shall use, locate or maintain (store) any solid waste can, garbage container or other waste receptacle within the public right-of-way other than on the day

of removal service. Such waste receptacles shall be stored out of public view on non-service dates, whenever practical, or stored nearest the main structure.

Amend Section 602.3 to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat ~~during the period from [DATE] to [DATE]~~ to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions [Unchanged.]

Amend Section 602.4 to read as follows:

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat ~~during the period from [DATE] to [DATE]~~ to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions [Unchanged.]

CHAPTER 12.265 – INTERNATIONAL SWIMMING POOL AND SPA CODE AMENDMENTS

12.265.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.265.020 Amendments. The 2021 International Swimming Pool and Spa Code is amended or modified as follows:

Amend Section 202 to add the following definition:

PRIVATE SWIMMING POOL means a swimming pool or pool located at and intended primarily for the use of the occupants of a single or two-family dwelling unit.

Amend Section 301 by adding the following:

301.2 Existing swimming pools. Any person who owns or is in possession of an existing private swimming pool that does not conform to the requirements of this section shall make the pool conform to the requirements of this section within ninety (90) days from its effective date.

Exceptions: The chief building official is hereby authorized to exempt any private swimming pool from the provisions of Health and Safety Code section 115922:

1. If it is secured from unauthorized entry by a natural or artificial barrier that provides the same or a greater degree of protection than would an enclosure.

An application for exception shall be filed in writing with the chief building official. The application shall contain a brief statement evidencing that the applicant is entitled to the exception and such other information as the chief building official may prescribe.

Delete Section 302.

Amend Section 305 by deleting all provisions and replacing them in their entirety with the following:

305.1 General. Pool barriers and enclosures shall meet the requirements of the California Swimming Pool Safety Act. The text in CBC 3109.2 contains the statutory language that is required to be duplicated and published in California Code of Regulations, Title 24. As such the section numbers reflect those within the Health and Safety Code.

305.2 Enclosure required for private swimming pools. Every person who owns or is in possession of any land on which there is situated a private swimming pool shall secure the pool from unauthorized entry by an enclosure that meets all of the requirements of Health and Safety Code section 115923. The enclosure shall be specifically designed to prevent unauthorized entry from adjacent private and/or public property. This enclosure shall be in addition to the "safety features" required by Health and Safety Code section 115922.

Section 2. Addition of new Chapter 12.350 with administrative and program regulations on gate safeguards.

Chapter 12.350 of the Municipal Code of the City of San Rafael is hereby added to read as follows:

CHAPTER 12.350 – GATE SAFEGUARDS

12.350.010 - Purpose. The purpose of this chapter is to promote public safety and welfare by reducing the risk of death or injury that may result from gates detaching from supporting hardware or gates not being well maintained or inspected. The city finds it necessary to require gates to be inspected periodically by a professional and record keeping to ensure the basic life safety of the public.

12.350.020 - Definitions. For the purposes of this chapter, the following definitions shall apply:

1. "Property owner" means and includes, without limitation, the fee owner(s) of real property, their agents, or the person(s) in possession of the real property.
2. "Gate inspector" means any licensed fence installer, licensed automatic system installer, ICC certified building inspector, licensed architect, or licensed engineer.
3. "Written certification" means a document signed and/or stamped by a gate inspector attesting that the inspector performed an in-person inspection of the gate and based on that inspection has determined that the gate meets all of the standards set forth in this chapter, the gate has been maintained, and the gate is in good working order. In addition, the document shall include the following:
 - a. Inspection date.
 - b. Site address.
 - c. Name of the property owner.
 - d. Contact information of inspector.
 - e. Signature and/or stamp of the inspector.

12.350.030 - Scope. The provisions of this chapter shall apply to all vehicular gates and any gate more than 48 inches (1219 mm) in width or more than 84 inches (2134 mm) in height.

12.350.040 - General requirements. Gates shall meet the requirements of ASTM F1184 and Section 3110 of Chapter 12.200.020 of this code. Gates with operators or similar systems shall also meet the requirements of UL 325 and ASTM F2200.

12.350.050 - Maintenance and inspection. The Property owner shall keep all gates on the property well maintained and in good working order. The property owner shall have or cause to have all gates on the property inspected by a gate inspector and obtain a written certification at least once every five (5) years. The property owner shall keep a copy of the most recent written certification for each gate and make it available to the building official upon request.

12.350.060 - Time limits for compliance. The property owner shall bring all gates existing as of the effective date of this ordinance into compliance with the provisions of this chapter, and obtain a written certification for each gate, by July 1, 2025 and at least once every five (5) years thereafter. The property owner of a new gate installed after the effective date of this ordinance shall immediately comply with the provisions of this chapter and obtain a written certification upon installation of the gate and at least once every five (5) years thereafter.

DIVISION 2. FINDINGS.

California Health and Safety Code Sections 17958.5, 17958.7, and 18941.5 require that findings be made in order to change or modify building standards found in the California Building Standards Code based on local climatic, geologic, or topographic conditions. Therefore, the San Rafael City Council hereby finds that these changes or modifications to the Building Code as adopted in Chapter 12.200 of the San Rafael Municipal Code; the Residential Code as adopted in Chapter 12.255; and the Existing Building Code as adopted in Chapter 12.230 are reasonably necessary because of the following local climatic, geological and topographical conditions:

I. Climatic conditions:

- a) Most of the annual rainfall in San Rafael occurs during the winter, it receives no measurable precipitation between May and October. During this time, temperatures average between 70 and 90 degrees. These conditions eliminate most of the moisture in the natural vegetation and heavily wooded hillsides. The area also suffers periodic droughts that can extend the dry periods to other months of the year. These conditions can be further exacerbated by occasional off-shore hot, dry, Santa-Ana winds; all of which contribute to an elevated fire hazard.
- b) Most of the annual rainfall in San Rafael occurs during the winter, and some portions of San Rafael are subject to tidal influences, there are times that flooding conditions occur in low-lying areas

II. Geologic conditions:

- a) San Rafael lies near several earthquake faults, including the very active San Andreas Fault, there are significant potential hazards such as road closures, fires, collapsed buildings, and isolation of residents requiring assistance.
- b) Many areas of the city, including some highly developed industrial and commercial areas, are located on bay alluvial soils which are subject to liquefaction in the event of an earthquake.

III. Topographic conditions:

- a) Much of San Rafael is located in hilly areas, and many of the residential areas are heavily landscaped, and many exist adjacent to hilly open space areas which are characterized by dry vegetation and have limited access. In addition, the steepness of grades located in the hills and canyons results in narrow and winding roads, and limited water supply, making timely access, rescue and firefighting activities by emergency providers difficult.
- b) The major arterial route between San Francisco and Marin and Sonoma county areas, Highway 101, bisects the City of San Rafael; should that highway become impassable, alternative routes via surface streets in San Rafael may cause heavy traffic congestion, limiting emergency access.

More specifically, the above modified building standards are listed below with the corresponding climatic, geological or topographical condition which necessitates the modification.

CBC Section Numbers	Climatic, geological and topographical condition
903.2	<i>Ia, IIa, IIIa, IIIb</i>
909.2	<i>Ia, IIa, IIIa</i>
1015.2	<i>Ib, IIa</i>
1015.8	<i>Ib, IIa</i>
1505.1	<i>Ia, IIIa</i>
1807.4	<i>Ib, IIa, IIb</i>
3110	<i>IIIa, IIIb</i>
3202.2.3	<i>IIa, IIb, IIIb</i>
CEBC Section Numbers	
505.2	<i>IIa</i>
CRC Section Numbers	
R313.1	<i>Ia, IIa, IIIa, IIIb</i>
R313.2	<i>Ia, IIa, IIIa, IIIb</i>
R313.3	<i>Ia, IIa, IIIa, IIIb</i>
R314.7.2	<i>Ia, IIa, IIIa</i>
R902.1	<i>Ia, IIIa</i>

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

This Ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to 14 CCR Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment. (14 Cal. Code Regs. Section 15061(b)(3), 'general rule' provision).

DIVISION 4. 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 portion of this Ordinance. The City Council of the City of San Rafael 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 shall be declared invalid.

DIVISION 5. EFFECTIVE DATE OF ORDINANCE.

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 on January 1, 2023. 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 regular meeting of the San Rafael City Council on the 7th day of November 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the 21st day of November 2022 by the following vote, to wit:

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



Kate Colin, Mayor

Attest:



LINDSAY LARA, City Clerk