

ORDINANCE NO 1906

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING CHAPTER 8.18 OF THE SAN RAFAEL MUNICIPAL CODE ENTITLED “ALCOHOLIC BEVERAGES”, CONCERNING REGULATION OF THE CONSUMPTION OF AN ALCOHOLIC BEVERAGE AND THE POSSESSION OF AN OPEN CONTAINER OF AN ALCOHOLIC BEVERAGE ON CITY PROPERTY OR ON POSTED PRIVATE PROPERTY.

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

DIVISION 1.

Section 8.18.010 of Chapter 8.18 of the San Rafael Municipal Code is hereby amended to revise the subsection C definition to read as follows:

- “C. Open Container of an Alcoholic Beverage”. The phrase “open container of an alcoholic beverage” means a bottle, can, glass, jug, box, or other container of any type which contains an alcoholic beverage, and that is either (1) an original container for that alcoholic beverage that has been opened or has had a seal broken or has had the contents partially removed, or (2) a substitute container for that alcoholic beverage into which the alcoholic beverage has been placed.

DIVISION 2.

Section 8.18.020 of Chapter 8.18 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

8.18.020 Possession of Open Container of Alcoholic Beverage near Liquor Stores.

A. Prohibited Conduct. It shall be unlawful for any person to enter, be or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (Section 23000 et seq.) of the Business and Professions Code, who possesses an open container of an alcoholic beverage.

B. “Posted Premises” Defined. As used in Subsection A of this section, “posted premises” means those premises which are subject to licensure under any retail package off-sale alcoholic beverage license, and the parking lot immediately adjacent to the licensed premises, on which visible signs indicate to the patrons of the licensee and to persons in the adjacent parking lot that the provisions of Subsection A are applicable. This section only can be enforced on premises which have been posted with such signs.

C. Posting of Signs Required. All retail package off-sale alcoholic beverage licensees licensed pursuant to Division 9 of the Business and Professions Code to operate in the City shall

post such licensed premises with permanent signs which include language stating that possession of any opened alcoholic beverage container in or outside the licensee's premises, including the adjacent parking lot, is prohibited by law. Signs required to be posted pursuant to this section must be clearly visible to: (1) patrons of the licensees, and (2) persons using the parking lot immediately adjacent to the licensed premises. It shall be unlawful for any licensee to fail to acquire, post and maintain signs pursuant to this provision.

DIVISION 3.

Section 8.18.030 of Chapter 8.18 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

8.18.030 Consumption of an Alcoholic Beverage or Possession of an Open Container of an Alcoholic Beverage on City Public Property.

A. Prohibited Conduct. It shall be unlawful for any person to consume an alcoholic beverage or to possess an open container of an alcoholic beverage in or upon any City park, open space, playground, recreation area, or other public place, including but not limited to the grounds of City Hall, the Falkirk Mansion, any Community Center, or any City street, sidewalk, pathway, lane, alley, parking lot, garage, parking structure, plaza, or other City-owned, leased or controlled public property.

B. Exceptions. This section shall not apply where the person's consumption of an alcoholic beverage or possession of an open container of an alcoholic beverage occurs in any City park or other public place for which the City has issued a permit or license to such person or to a group which includes such person, that permits such consumption or possession.

DIVISION 4.

Section 8.18.040 of Chapter 8.18 of the San Rafael Municipal code is hereby deleted.

DIVISION 5.

Section 8.18.050 of Chapter 8.18 of the San Rafael Municipal Code is hereby amended to read in its entirety as follows:

8.18.050 Consumption of an Alcoholic Beverage or Possession of an Open Container of an Alcoholic Beverage on Parking Lots or Landscaped Areas on Private Property.

A. It is unlawful for any person to consume an alcoholic beverage or to possess an open container of an alcoholic beverage:

1. In or on parking lots located on private property used for commercial purposes, that is open and accessible to the public.

In or on parking lots located on private property containing three (3) or more residential units, that is open and accessible to the public.

3. In or on landscaped areas located on private property adjacent to parking lots described in subsections (A)(1) and (2) of this section, or adjacent to any City-owned, leased or controlled public property described in Section 8.18.030(A), that is open and accessible to the public.

B. This section shall not be effective unless the property owners of particular private parking lots and landscaped areas post the premises with signs prohibiting the consumption of an alcoholic beverage or the possession of any open container of an alcoholic beverage pursuant to this section. The signs shall set forth the prohibition in substantially the following form:

“Consumption of an alcoholic beverage or possession of an open container of an alcoholic beverage is prohibited in this parking lot, or in or upon landscaped areas adjacent to this parking lot, or adjacent to any City sidewalk, street or other public property. San Rafael Municipal Code Section 8.18.050.”

C. The signs must be clearly visible to (1) persons coming onto the premises, (2) persons using the parking lot, and (3) persons on the City sidewalk, street or other public property immediately adjacent to the parking lot or the landscaped area. The signs shall be in a form prescribed by the Police Chief and shall be no smaller than seventeen inches by twenty-two inches in size, shall contain lettering at least one inch in height, and shall be mounted so that the lower edge of the sign is at least four feet, and the top edge does not exceed seven feet, above the ground. The property owners shall have sole responsibility for the construction and maintenance of such signs.

D. Exceptions.

1. This section shall not apply to parking lots or landscaped areas which are not posted with signs pursuant to this section.
2. This section shall not apply to persons or groups who have obtained written permission of the property owner to consume alcoholic beverages on parking lots and landscaped areas.

DIVISION 6.

The City Council finds that the code amendments adopted herein are exempt from the requirements of the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of

the CEQA Guidelines, which exempts projects that clearly have no potentially significant adverse environmental impacts.

DIVISION 7.

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 8.

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.

GARY O. PHILLIPS, Mayor

ATTEST:

ESTHER C. BEIRNE, City Clerk

The foregoing Ordinance No.1906 was read and introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 16th day of July, 2012 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Connolly, McCullough & Mayor Phillips

NOES: Councilmembers: None

ABSENT: Councilmembers: Heller, Levine

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 6th day of August, 2012.

ESTHER BEIRNE, City Clerk