

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1670

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NOVATO ADDING SECTION 7-12 TO CHAPTER VII OF THE
NOVATO MUNICIPAL CODE REGARDING CONDUCT IN THE
STREAM PROTECTION ZONE**SECTION I. FINDINGS**

The City Council of the City of Novato hereby finds and declares as follows:

WHEREAS, the City has a substantial interest in ensuring the protection, maintenance, enhancement and restoration of streams and riparian areas, which includes ensuring they are adequately protected from activity which might have a substantial negative impact on natural resources and the environment, and in ensuring the city's ability to comply with its statutory, regulatory and permitting obligations with respect to creeks and riparian areas; and

WHEREAS, the City's General Plan places strong emphasis on the "protection, maintenance and enhancement of Novato's natural resources..." including its creeks and riparian areas; and

WHEREAS, the City has established a Stream Protection Zone under Novato Municipal Code Chapter 19.35, which area includes the stream bed, the stream banks, all riparian vegetation and an upland buffer zone at least 50 feet wide on both sides of the stream, and establishes special requirements for development and land uses within the Stream Protection Zone; and

WHEREAS, the City now desires to further regulate individual conduct within the Stream Protection Zone which might have a negative impact on the City's natural resources and environment, including camping, urinating and defecating, and disposal of garbage in creeks and riparian areas.

NOW THEREFORE, the City Council of the City of Novato does ordain as follows:

SECTION II. Section 7-12 of the Novato Municipal Code titled "Creeks, Tributaries and Riparian Areas" is hereby added to read as follows:

7-12.1 Purpose

- a. This section shall govern individual conduct within the Stream Protection Zone, as established and defined in Division 19.35 of this Code, whether occurring on public or private property.
- b. The public health, safety, and welfare, as well as the City's ability to comply with its statutory, regulatory and permitting obligations with respect to the protection of its creeks, tributaries, riparian corridors and associated natural resources, require that the City adopt and enforce comprehensive regulations specifically prohibiting deleterious activities within these areas, whether located on public or private property.

- c. The purpose of this section is to establish clear and direct requirements for the inspection and maintenance of the areas governed by this section and to authorize City enforcement of violations of the provisions of this section by individuals engaging in prohibited activity and/or property owners permitting prohibited activities or conditions to occur or be maintained on their properties.

7-12.2 Prohibited activities and conditions

It shall be unlawful and a violation of this section for any person to engage in or maintain, or for any property owner to allow or maintain, any of the following activities or conditions in the Stream Protection Zone:

- a. Collecting, gathering, or disturbance of any natural or cultural resources, except for pruning, removal of materials or any other activities authorized under appropriate permits from state and/or federal agencies or in conjunction with permitted city-sponsored activities.
- b. Camping, occupying camp facilities, or using camp paraphernalia.
- c. Entering into or remaining within property to which public access is prohibited or restricted.
- d. Driving or otherwise operating a vehicle, except as authorized in conjunction with otherwise permitted activity.
- e. Using bicycles in areas not expressly designated for bicycle use.
- f. Possessing or consuming alcoholic beverages.
- g. Disposing of, depositing, throwing, keeping or accumulating trash, litter, rubbish, rubble, garbage, debris or other solid waste, dirt, green waste or animal waste.
- h. Traveling outside of designated paths.
- i. Posting any sign on a tree, tree-stake or guard, or fastening any wire, cable or rope to any tree, tree-stake or guard unless otherwise authorized by the city.
- j. Urinating or defecating.
- k. Making any excavation or unauthorized encroachment.
- l. Possessing or discharging of weapons, firearms, paintballs, fireworks, or building fires, except a fire lighted and maintained only in an apparatus or receptacle (including a fire pit, stove, barbeque or fire circle) provided by, owned, or maintained within a park by the City of Novato for that particular purpose.
- m. Any act in a regulated area constituting a violation of any provision of California Endangered Species Act, Endangered Species Act, the California Public Resources Code, or any regulation of the California Department of Fish and Game, or of any permit or approval issued by any federal, state or local agency having jurisdiction over the regulated area shall also be a violation of this section.

This section is intended to regulate individual conduct within the Stream Protection Zone. Nothing in this section is intended to alter, supplant or overrule the rules and regulations set forth for development and land use within the Stream Protection Zone under Division 19.35 of this Code, or to prohibit any activities lawfully permitted therein.

7-12.3 Violation and Abatement

Any violation of this section shall be punishable as a misdemeanor in accordance with section 1-5 of this Code and shall be deemed a public nuisance. Nothing in this section shall prevent the City from initiating a civil or administrative action, or any other legal or equitable proceeding, to obtain compliance with the provisions of this section. The remedies provided by this section are intended to be alternative methods of obtaining compliance and/or discouraging noncompliance with the provisions of this section and are expressly intended to be in addition to any other civil, criminal, or administrative remedies provided by law, including, but not limited to, Penal Code sections 602 and 647.

Any violation of this section may be abated pursuant to the provisions described in section 7-11.4 of this Code.

7-12.4 No liability on the city

Nothing in this section shall be deemed to impose any liability upon the City or upon any of its officers or employees, nor to relieve the owner or occupant of any private property from the duty to keep property in a safe condition.

SECTION III. CEQA

This Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and it has been determined that approval of the ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions without any physical project being approved, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION IV. 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.

SECTION V. ENFORCEABILITY OF ORDINANCE

In light of the existing COVID-19 public health emergency, this Ordinance shall not be applied to prohibit camping or to clear encampments existing as of the Effective Date of this Ordinance until the earlier of the following:

1. The Centers for Disease Control and Prevention amends or revokes its Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 (COVID-19) for Homeless Service Providers and Local Official to no longer recommend local agencies allow individuals living unsheltered or in encampments to remain where they are.
2. COVID-19 vaccinations are accessible for individuals experiencing homelessness, at least 90 percent of County residents 16 year and older have been fully vaccinated, as defined by the California Division of Occupational Safety and Health, and the County meets the State of California requirements for the Yellow (Minimal) Tier in place as of May 25, 2021.

SECTION VI. CITY MANAGER TO PROMULGATE RULES AND REGULATIONS

The City Manager is hereby authorized to promulgate rules and regulations to implement this Ordinance.

SECTION VII. PUBLICATION AND EFFECTIVE DATE

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption,

or


publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

This ordinance shall become effective 30 days after the date of its passage and adoption.


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I HEREBY CERTIFY that the foregoing ordinance was first read at a regular meeting of the Novato City Council on the 25th day of May, 2021, and was passed and adopted a regular meeting of the Novato City Council on the 8th day of June, 2021, by the following vote, to wit:

AYES: Councilmembers Athas, Peele, Wernick, Lucan, Eklund
 NOES: Councilmembers None
 ABSTAIN: Councilmembers None
 ABSENT: Councilmembers None


 Mayor of the City of Novato

Attest:


 City Clerk of the City of Novato

Approved as to form:


City Attorney of the City of Novato