

ORDINANCE NO. 2014-1401

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN
MARCOS, CALIFORNIA, AMENDING SECTION 1.08.010 OF THE SAN
MARCOS MUNICIPAL CODE TO MODIFY RULES OF CONSTRUCTION

WHEREAS, the San Marcos Municipal Code (SMMC) is the governing regulatory scheme of the City of San Marcos; and

WHEREAS, the SMMC utilizes the terms “shall” and “must” interchangeably to describe mandatory actions or activities, and such terms have been construed in case law and by rules of English usage to be either directory or mandatory in nature, depending upon their context; and

WHEREAS, the City Council has determined that the SMMC Rules of Construction contained in Section 1.08.010, which currently provide that the use of “shall” is mandatory and “may” is permissive, should be supplemented and modified to clarify that the term “must” is also mandatory, and that the terms “shall” and “must” each impose mandatory obligations except as to the City itself, and that as to the City such terms will remain directory; and

WHEREAS, the City Council has also determined that SMMC Rules of Construction should also be modified to clarify that the term “may not” means not permitted to; and

WHEREAS, the City Council has further determined that the SMMC should expressly provide that the SMMC Rules of Construction are to be observed notwithstanding any rule or construction of the English language or case law authority holding to the contrary.

NOW, THEREFORE, the City Council of the City of San Marcos, in accordance with the freedom accorded to charter cities generally, and by the Charter of the City of San Marcos, specifically does ordain as follows:

Section 1. Section 1.08.010 of the San Marcos Municipal Code is hereby amended as follows

:CHAPTER 1.08

GENERAL PROVISIONS

(Note: Rules of Construction not included below are not amended or deleted)

SECTIONS:

1.08.010 Rules of Construction of this Code. Notwithstanding any rule or construction of the English language or case law authority holding to the contrary, in the interpretation or construction of this Code and of all ordinances of the City, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council.

May. The term “may” is permissive.

May not. The term “may not” means not permitted to.

Shall, must. The terms “shall” and “must” are mandatory, except as to the City, and as to the City such terms are to be construed as directory.

Section 2. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 3. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall publish this Ordinance of the title thereof, as a summary as required by state law.

Section 4. The City Clerk shall certify to the passage of this Ordinance and cause the same to be published in accordance with the provisions of State Law in a newspaper of general circulation designated for legal notices publication in the City of San Marcos.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos held on the 14th day of October 2014; and

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Marcos held on the 28th day of October 2014, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

APPROVED:

James M. Desmond, Mayor
City of San Marcos

ATTEST:

APPROVED AS TO FORM:

Phillip Scollick, City Clerk
City of San Marcos

Helen Holmes Peak, City Attorney
City of San Marcos