



AMENDMENTS TO SONOMA COUNTY CODE SECTION 19-15

Limiting the Prohibition of Camping on Public Property to Specific Times and Locations

Sonoma County Board of Supervisors, April 4, 2023

Agenda

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5. Approaches Adopted by Other Jurisdictions
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Introduction

- Staff recommends that your Board re-introduce for adoption the revisions included in Version 2 (Attachment B) of the proposed amendments to Section 19-15 of the Sonoma County Code so that the County's camping laws conform to recent court decisions that limit local jurisdictions' ability to enforce laws regarding public camping unless certain requirements are met.
- With the adoption of the recommended action for this Item, the amendments to Section 19-15 would further define public property, where camping on public property is prohibited *at all times*, and the hours of the day that public camping is allowed in other areas of public property.
- The proposed amendments balance the legal rights of unhoused individuals to have a place to sleep when there is no shelter otherwise available for those individuals with the need to regulate the growth and duration of large encampments for the overall health and safety of the community at large.



Prior Board Action – July 12, 2022

- On July 12, 2022, Staff presented your Board with proposed amendments to the County's public camping ordinance, Section 19-15 of the Sonoma County Code.
- Your Board requested that Staff further analyze whether the proposed amendments to Section 19-15 could define the prohibition of camping near waterways by reference to the FEMA 100-year flood zones as opposed to the reference to the high water mark of state waterways as used in Fish and Game Code § 5652.
- In addition, your Board requested Staff to analyze whether additional notice should be provided to individuals camping near such waterways or in a very high fire severity zone before a violation of the section is deemed to occur.



Prior Board Action – September 27, 2022

- On September 27, 2022, Staff presented three revised options for amending Section 19-15 for your Board's consideration.
- The presentation included the original version presented on July 12 and two new versions incorporating the revisions requested by your Board.
- Your Board ultimately decided to introduce a combination of Versions 2 and 3 for the first reading and approved a resolution introducing the combined version (Attachment A).
- In addition, your Boards requested that Staff (1) prepare or obtain maps depicting the locations of the areas adjacent to waterways where camping would be prohibited under the amendments to Section 19-15 and (2) meet with the affected Department Heads to discuss recommendations for the proposed implementation of the amendments to Section 19-15 once adopted by your Board.
- Two versions of the amendments are presented for your Board's consideration. The version introduced by your Board on September 27, 2022 (Attachment A), along with a new version further refining the specific areas where camping will be prohibited at all times (Attachment B).
- Staff recommends that your Board re-introduce the revised version of the amendments to Section 19-15 and bring the revised ordinance back for adoption on April 18, 2023.



Summary

- The legal challenges to public camping ordinances and the solutions for legally addressing growing homeless encampments continue to evolve.
- Jurisdictions around the state differ in their responses.
- Some jurisdictions are not enforcing camping ordinances or tying enforcement to shelter availability, while others are enacting camping ordinances that attempt to align with recent legal cases.
- Staff is recommending the latter approach with the proposed ordinance before you for consideration. By doing so, this would bring the ordinance in line with *Martin v. City of Boise* by recognizing the fundamental right for unsheltered individuals to sleep where shelter is not otherwise available, while maintaining the County's ability to prohibit prolonged occupation of public property, large accumulation of items and debris, and the establishment of large-scale encampments.
- Proposed amendments include (1) prohibition of camping on or near certain types of properties that are particularly sensitive or inconsistent with such use and (2) limiting public camping to 9:00 p.m. to 7:00 a.m. in the remaining areas of public property.



Background – Existing Restrictions on Public Camping

- Sonoma County Code Section 19-15 generally prohibits overnight camping on public property at any time and at any place.
 - Generally applicable to County owned property and public property throughout unincorporated Sonoma County
 - As currently written, Section 19-15 states:

“(b) Camping on Public Property Prohibited. It shall be unlawful for any person or persons to camp in any public park, on any public street or on any other public property, except in a designated public campground or by authority of a written permit issued by the county.”
- Sonoma County Code Section 20-25 specifically prohibits camping in Sonoma County Regional Parks except for in designated areas with a permit
- Sonoma County Code Section 20-40 prohibits camping on County-controlled property except for those areas designated for camping.
- Since the *Martin* decision, the County does not enforce Section 19-15 or 20-25 unless the County has provided advance notice, opportunities for outreach and assessment, offers of adequate shelter, and storage of property prior to clearing an encampment (absent immediate health or safety concerns).



Martin v. City of Boise Decision

- The Ninth Circuit case of *Martin v. City of Boise* was brought by a group of homeless individuals in Boise who were cited for violating the City’s camping ordinance and disorderly conduct ordinance. Plaintiffs alleged these citations violated the Cruel and Unusual Punishments Clause of the Eighth Amendment.
- The Ninth Circuit’s April 2019 decision recognized that the Eighth Amendment prohibits the government from criminalizing an involuntary act or condition if it is an unavoidable consequence of being homeless. In *Martin*, this rule was applied to anti-camping laws that prohibit sitting, lying, or sleeping on public land.
- The Ninth Circuit Court of Appeals stated its holding as follows: “so long as there is a greater number of homeless individuals in a jurisdiction than the number of available beds in shelters, the jurisdiction cannot prosecute homeless individuals for involuntarily sitting, lying, and sleeping in public. That is, as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter.” *Martin v. City of Boise*, 920 F.3d 584, 617 (9th Cir. 2019).
- The Court in *Martin* qualified its holding as “a narrow one” and stated, “we in no way dictate to the City that it must provide sufficient shelter for the homeless, or allow anyone who wishes to sit, lie, or sleep on the streets ... at any time and at any place.” *Id.*



Martin v. City of Boise Decision

- As a result of the *Martin* decision, the County cannot criminally cite or arrest a person for a condition of homelessness (such as sleeping or camping in public spaces), unless it can demonstrate the individual subject to citation or arrest was first offered shelter or otherwise had alternative housing available to them.
- The *Martin* decision outlined some general types of enforcement actions that are still legally permissible even without providing adequate shelter.
 - First, individuals who decline an offer of shelter, or reasonably have access to or the means to acquire shelter are not shielded from enforcement.
 - Second, the County may continue to enforce rules against obstruction of public rights of way (streets and sidewalks) or the erection of certain kinds of structures.
 - Third, “even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible.”
Martin at 617, fn. 8.
- The key is whether the local regulation “punishes a person for lacking the means to live out the ‘universal and unavoidable consequences of being human’ in the way the ordinance prescribes.” *Id.*



Approaches Adopted by Other Jurisdictions

- Eliminate local restrictions on public camping
- Prohibit enforcement of public camping ordinance unless there is sufficient shelter space is available
- Impose restrictions on types of structures erected on public property or type of camping materials allowed
- Permit public camping only in specified areas
- Impose only geographic restrictions on public camping
- Impose only time restrictions on public camping
- Impose both reasonable time and place restrictions on public camping



Summary of Proposed Amendments

The following is a list of the proposed amendments to bring the County's existing camping ordinances into compliance with current law under *Martin v. City of Boise* while still providing the County with the necessary legal options to address encampments when they become a health and safety concern:

1. Impose time limitation on enforcement

- As amended, Section 19-15 would prohibit camping on public property daily between the hours of 7:00 a.m. to 9:00 p.m.
- By doing so, this would bring the ordinance in line with *Martin v. City of Boise* by recognizing the fundamental right for unsheltered individuals who have no other place to sleep, while maintaining the County's ability to prohibit prolonged occupation of public property, large accumulation of items and debris, and the establishment of large encampments.



Summary of Proposed Amendments

2. **Impose complete prohibition on camping on or near certain types of properties that are particularly sensitive or inconsistent with such use:**
 - a. Inside public buildings, fenced areas attached to public buildings, or within 25 feet of an entrance or exit to a public building;
 - b. Within 50 feet of a residence;
 - c. Within 100 feet of a playground, school, daycare, or other licensed childcare facility;
 - d. Within any County park (i.e., leave Section 20-25 unchanged);
 - e. Within any public highway, road, or street;
 - f. Within any public right-of-way, where the camping obstructs the free passage of persons, bicycles, or vehicles;
 - g. Within a “Very High Fire Severity Zone” as determined by the State Fire Marshall or local agency in accordance with Government Code sections 51178 and 51179; and
 - h. Within 150 feet of the high water mark of the waters of the state or within any area designated as a Regulatory Floodway on the FEMA maps; and
 - i. Within 25 feet of a facility that provides shelter, safe sleeping, or safe parking to homeless persons, or that serves as a homeless services navigation center..



Summary of Proposed Amendments

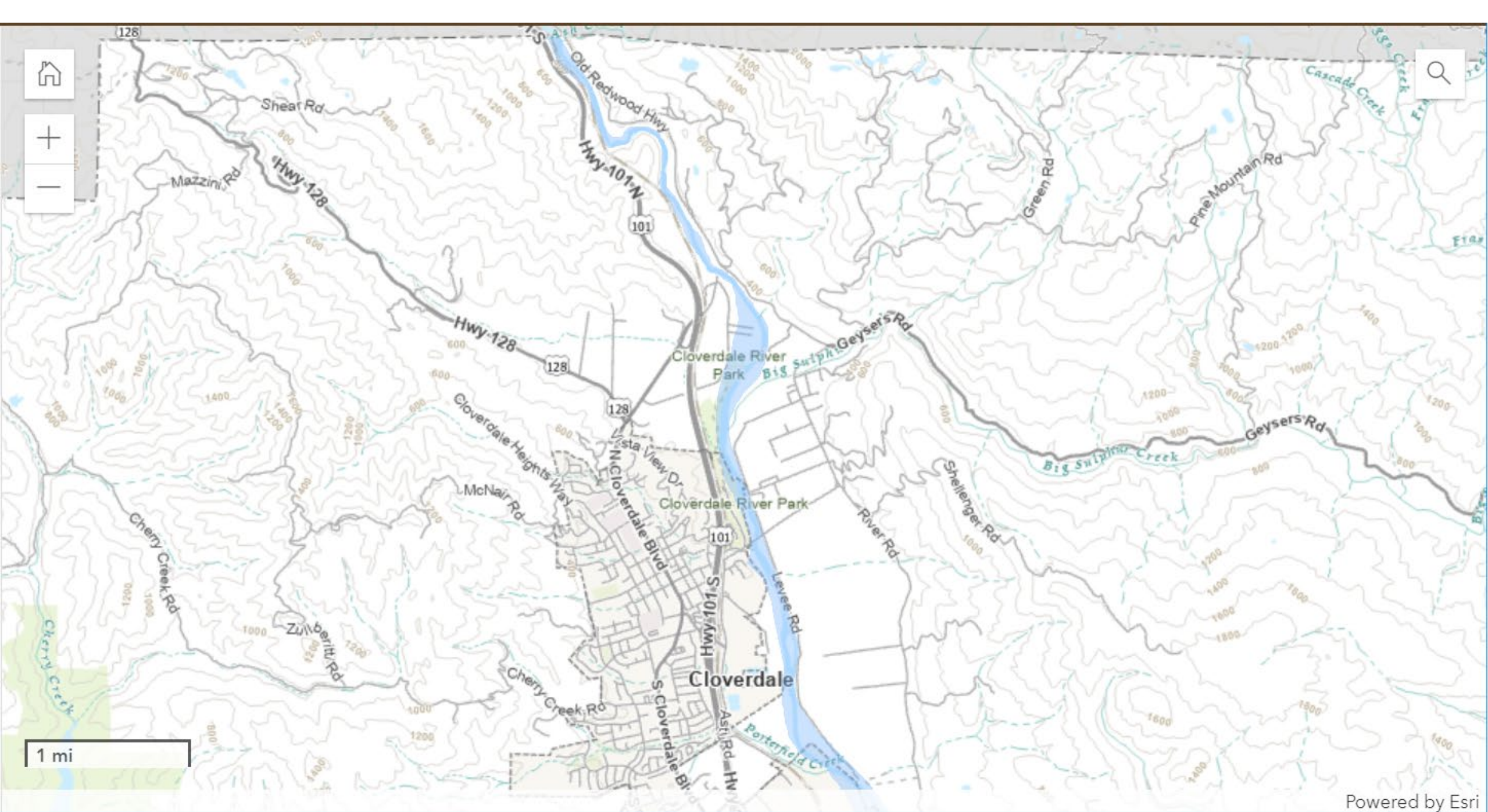
In addition, for the high fire severity zones and areas near a waterway, the proposed amendments require that an individual first be requested by a peace officer to move on unless signage is already posted in the area warning of the prohibition on public camping at that location.

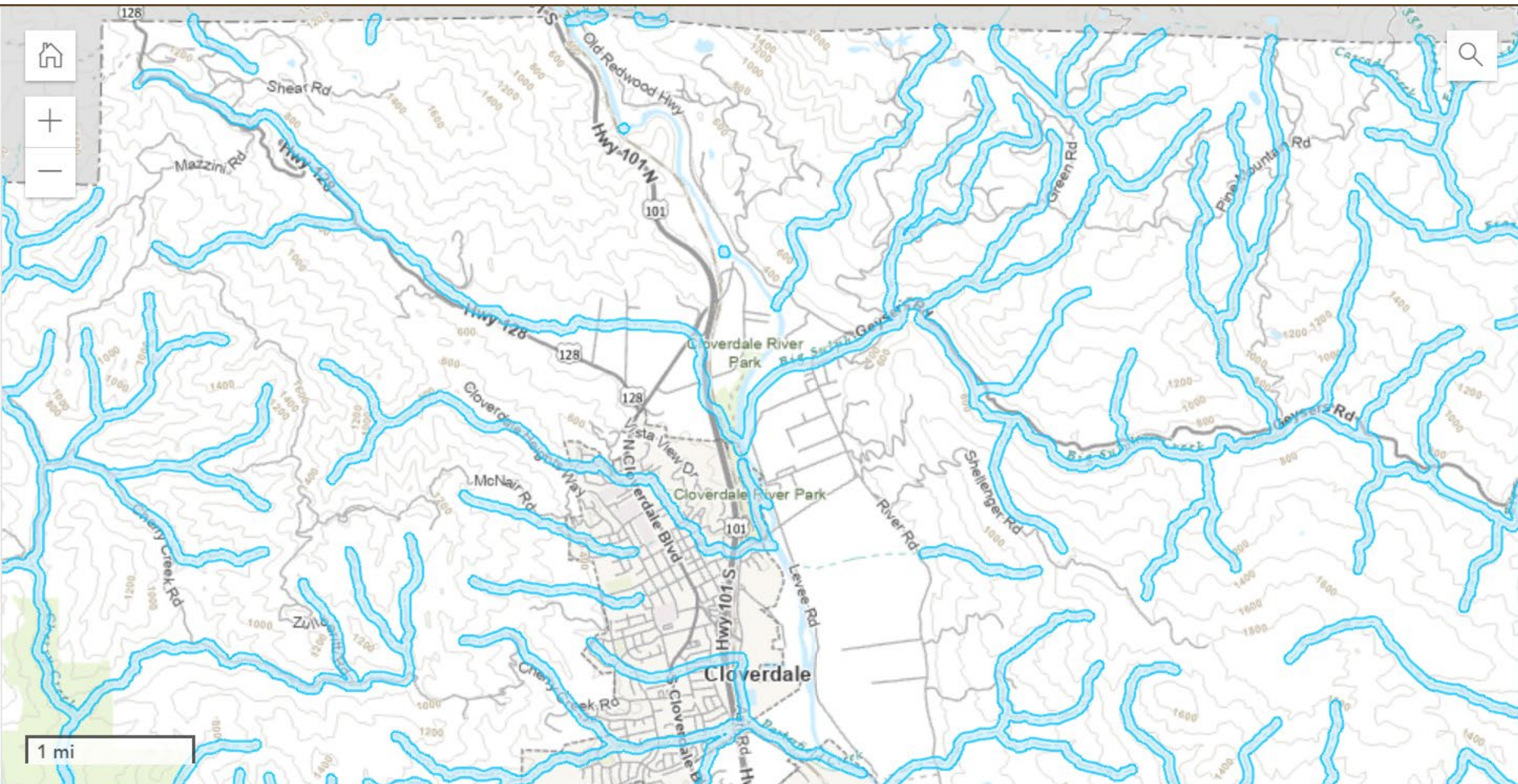
Additional Changes Recommended for Re-Introduction (Version 2)

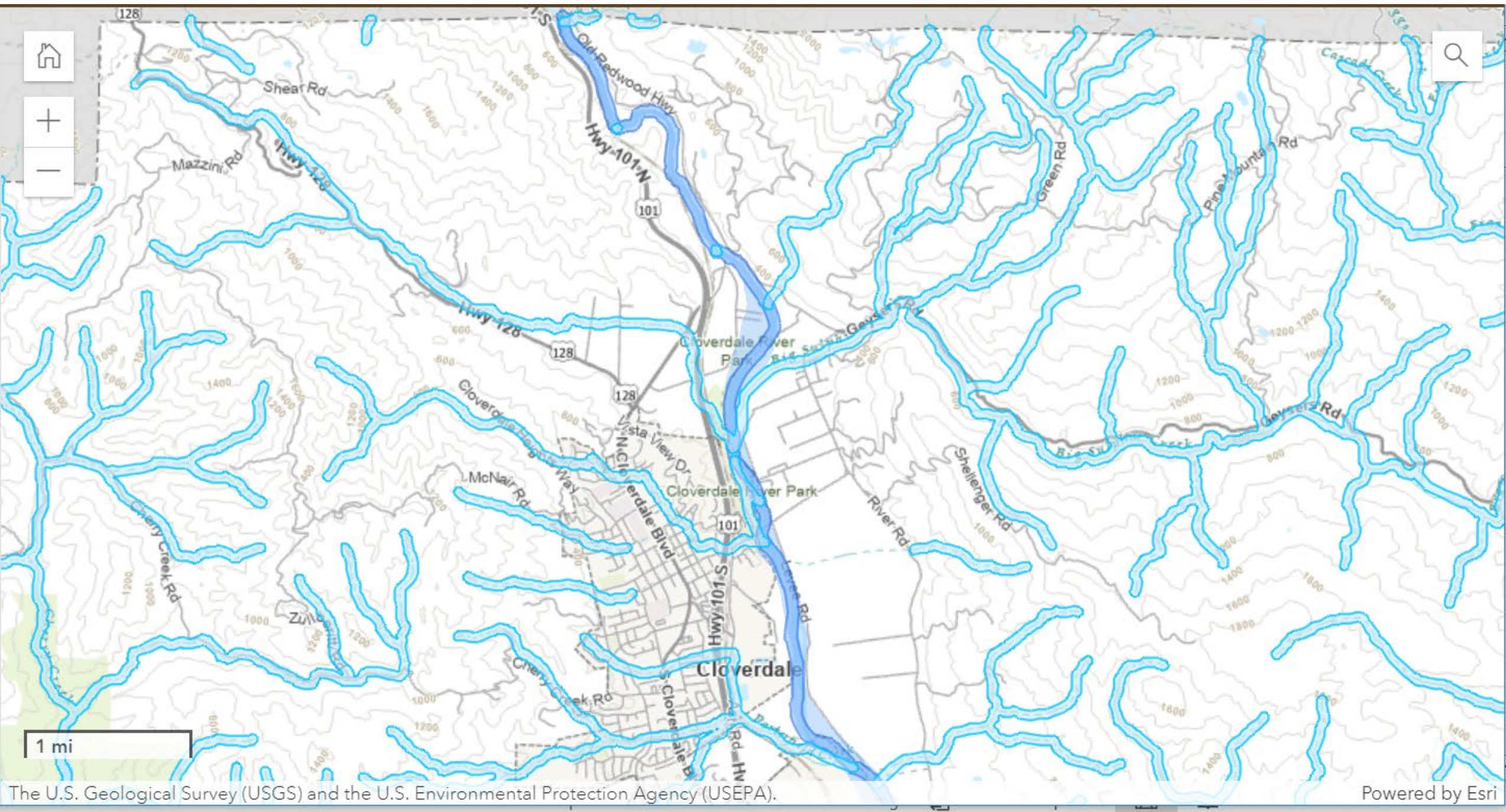
Attachment C includes a redline of the additional revisions made from the version of the ordinance introduced at the Board meeting on September 27, 2022. The changes include:

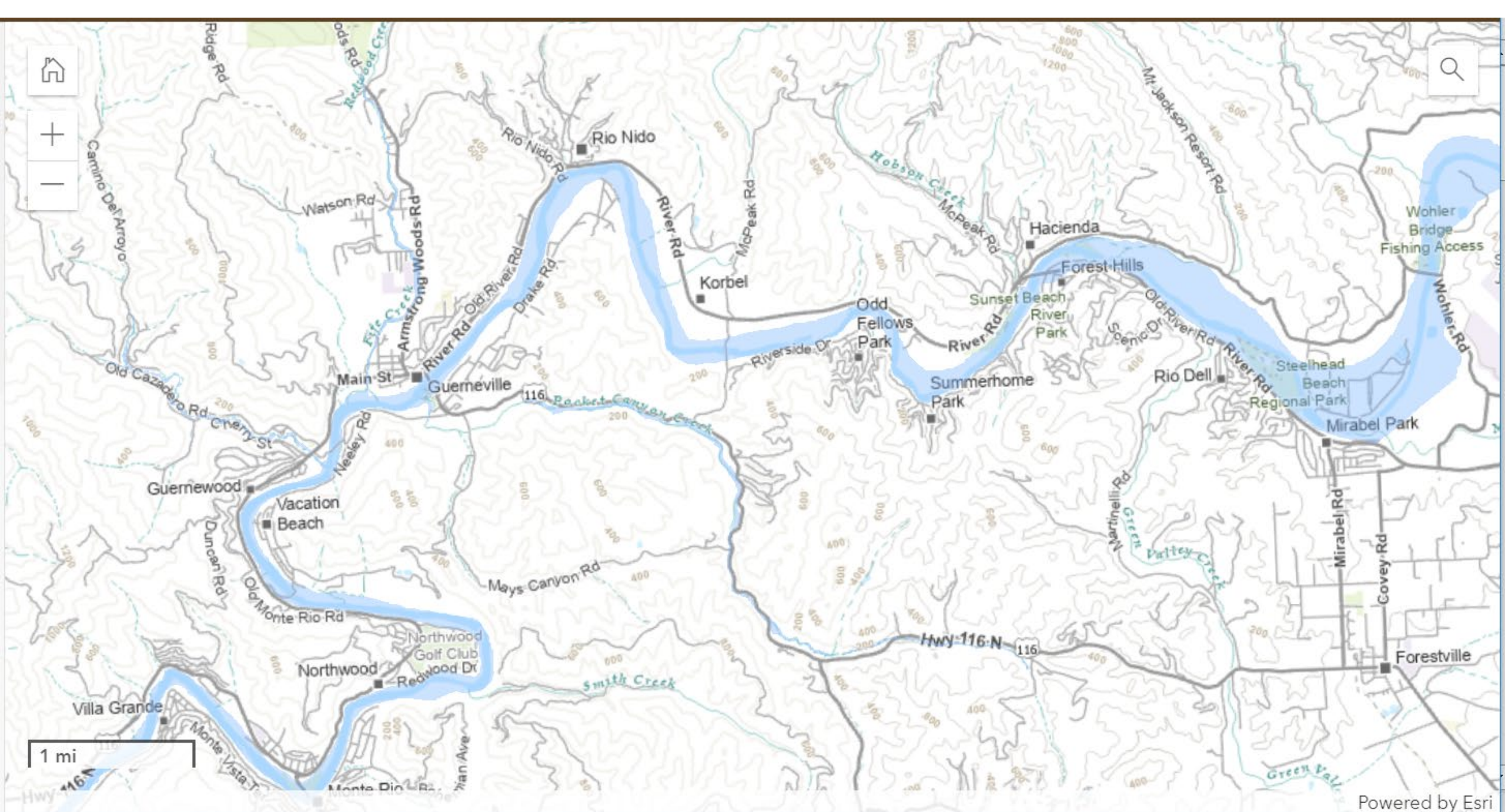
1. Reduce the area where camping is prohibited near the entrance or exit to a public building from 50 to 25 feet;
2. Reduce the area where camping is prohibited near a residence from 100 to 50 feet and remove the alternative prohibition on camping within 100 feet of a “residential zoning district”; and
3. Add a prohibition on camping within 25 feet of a facility that provides shelter, safe sleeping, or safe parking to homeless persons, or that serves as a homeless services navigation center.

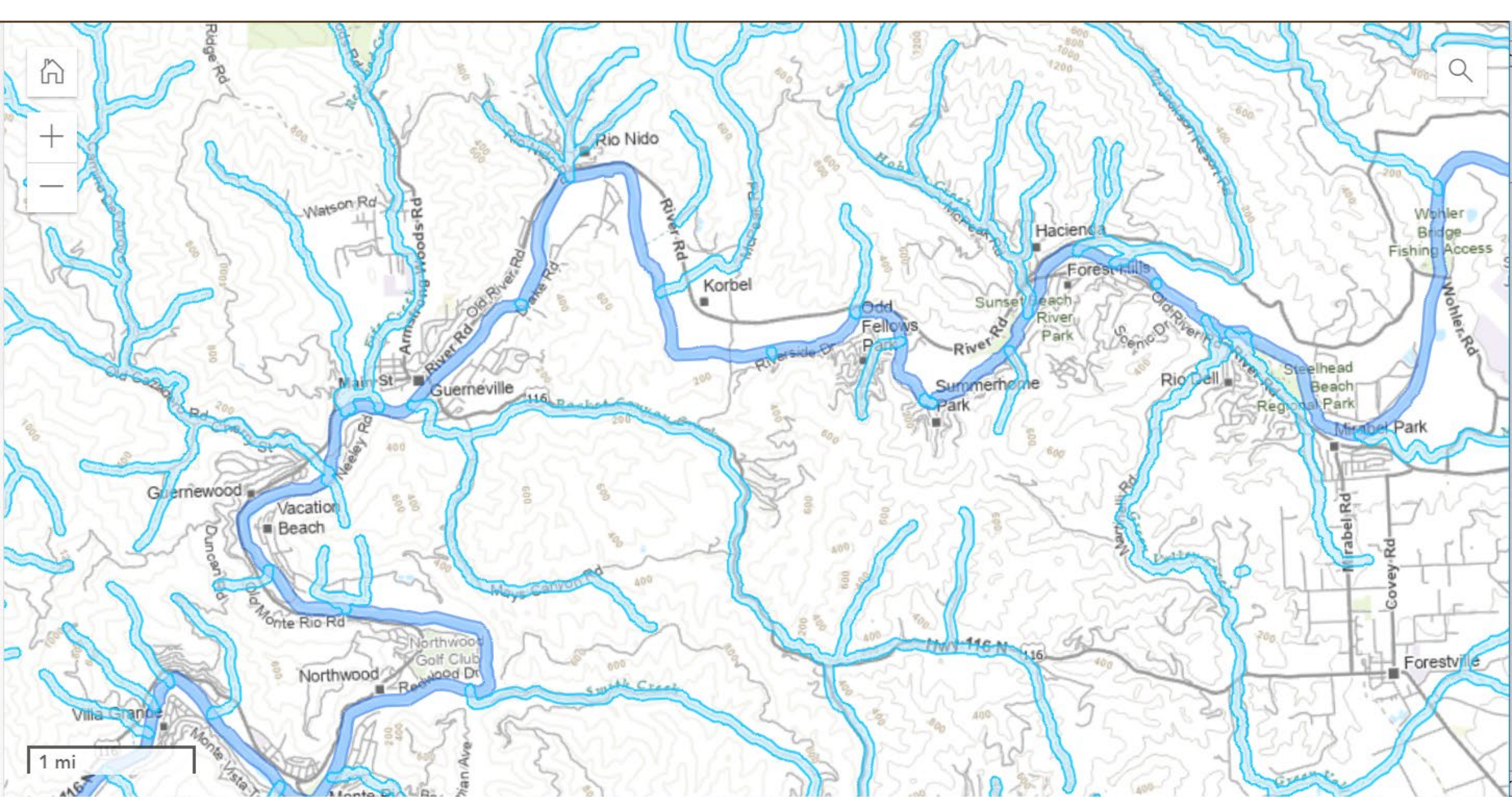


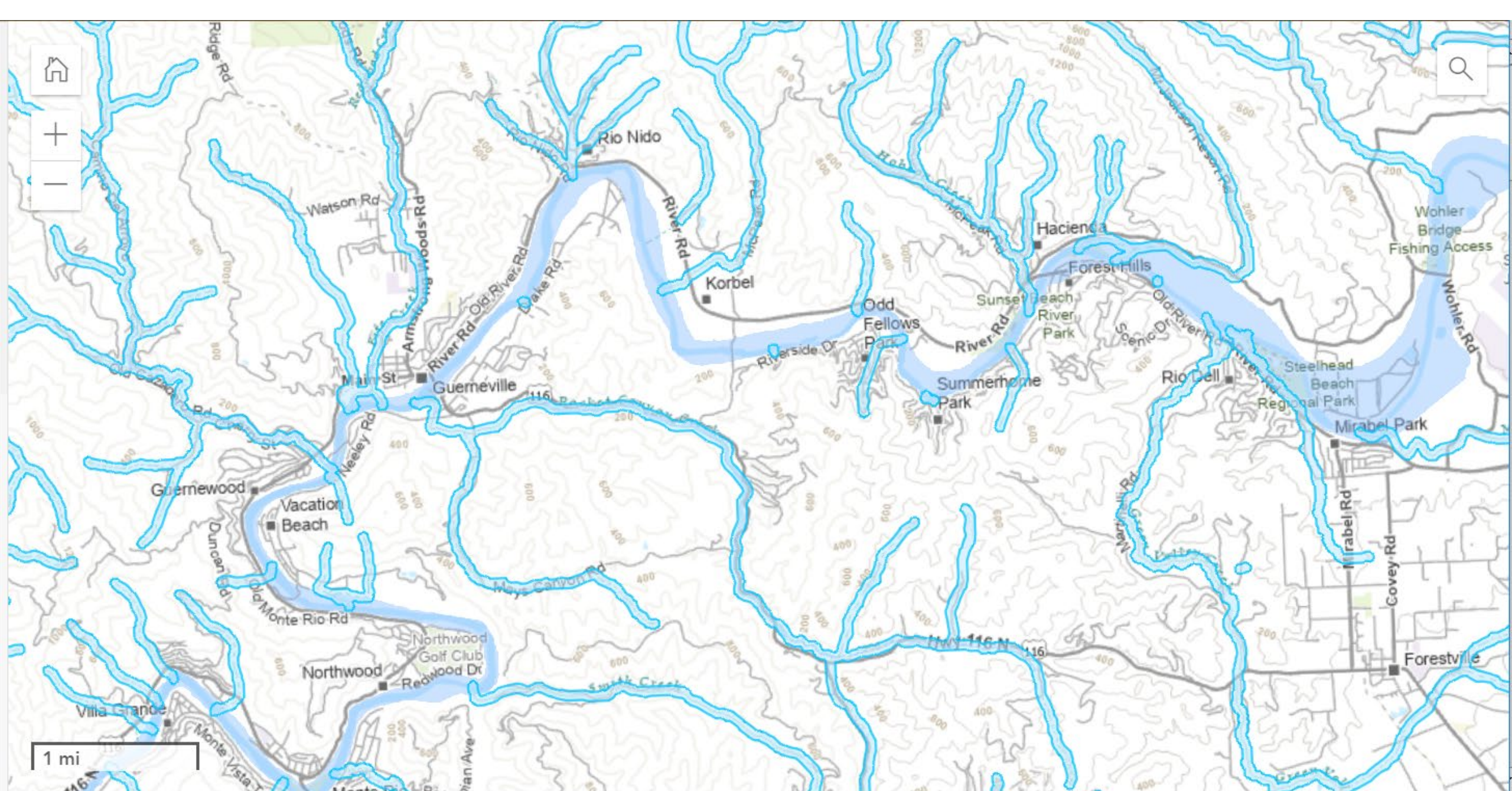












The U.S. Geological Survey (USGS) and the U.S. Environmental Protection Agency (USEPA).

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Recommended Actions

1. Consider the additional revisions recommended by staff (Attachment B) and adopt a Resolution re-introducing, reading the title of, and waiving further reading of an ordinance amending Section 19-15 of the Sonoma County Code to limit prohibitions on public camping to certain times and locations (Attachment D).
2. If re-introduced, direct staff to schedule the proposed ordinance for a second reading and adoption at the next Board meeting on April 18, 2023.
3. Alternatively, your Board could adopt the proposed ordinance introduced on September 27, 2022 (Attachment A)
4. Find that the project is exempt from California Environmental Quality Act (CEQA) pursuant to 14 CCR Sections 15061(b)(3) and 15308, as set forth in both versions of the proposed ordinance.



Comments & Questions

