



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

**Departments: Public Works, Parking Services, Economic Development, Fire, Police, Building, Planning, Code Enforcement, City Attorney (Cross-Departmental)**

**Prepared by: Danielle O’Leary  
Director of Economic Development**

**City Manager Approval:** \_\_\_\_\_

**Bill Guerin  
Director of Public Works**

**TOPIC: OUTDOOR ON-STREET DINING GUIDELINES FOR “STREETARIES”**

**SUBJECT: STREETARY PROGRAM GUIDELINES TO REPLACE COVID-19 TEMPORARY OUTDOOR DINING PROGRAM**

**RECOMMENDATION:** Accept informational staff report and approve staff recommendation on Streetary Program Guidelines.

**BACKGROUND:**

Outdoor dining is currently allowed under San Rafael Municipal Code Section [14.16.277](#), *Use of City Sidewalks and Rights-of-Way for Outdoor Eating Areas*. This ordinance, in place since 2000, requires that the business enter into a license agreement with the City, provide liability insurance, provide a site plan for the proposed outdoor seating location, and agree to maintain the area. The zoning requirements and performance standards for outdoor dining are also outlined in San Rafael Municipal Code Section [14.17.110](#), *Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments*.

On August 17, 2015, the City Council adopted [Resolution 13995](#), establishing a 3-year pilot program to expand the Outdoor Dining Program to include parklet projects, which provided a process for businesses to use parking spaces for outdoor dining purposes. On December 3, 2018, the City Council authorized the on-street dining to continue under the same limitations.

To help local businesses during the COVID-19 emergency, on June 1, 2020, the City Council adopted [Resolution 14809](#) authorizing the City Manager, at his discretion, to streamline the approval of permits or other entitlements for use of City sidewalks and on-street parking spaces for business activities of restaurants and retail businesses, waive or reduce application fees, and close portions of designated City streets up to two evenings per week in order to facilitate outdoor dining during and allow dining establishments to continue to operate when indoor dining was not allowed during the Covid-19 emergency.

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**FOR CITY CLERK ONLY**

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

Temporary Outdoor Dining Program permits approved under the COVID-19 emergency streamlined process are valid through November 30, 2022. Staff were tasked with creating a program beginning December 1, 2022, for the continuance of the Temporary Outdoor Dining Program that sets clear and fair rules, parameters, and processes to ensure a positive impact on the City's economic vitality.

**ANALYSIS:**

The temporary on-street dining program had very few guidelines as the intention of the City was to quickly and inexpensively give relief to restaurants struggling under the constraints imposed by Covid-19. However, to have a sustainable program for outdoor dining, additional guidance is required. In December 2021, a nine-department cross-departmental team was formed and has spent the past 6 months creating a more permanent streetary program focused on the need to enhance aesthetic guidelines, ADA compliance, cleaning and maintenance standards, and other operational standards and compliance needs. Staff analyzed market conditions in San Rafael as well as other comparable cities; discussed the needs of our businesses and residents; and strategized on how to leverage this program to maximize economic vitality all to create a practical, fair, efficient, and sensible program.

Staff also conducted an analysis of comparable cities that were early movers in implementing similar programs, such as the cities of San Diego, San Francisco, Palo Alto, San Mateo, Mill Valley, and other Bay Area cities. Staff assessed structural, operational, and procedural guidelines set by these cities as well as fees and public sentiment.

Staff then prepared an initial draft of the San Rafael Streetary Program Guidelines that were circulated and shared with external partners such as the Chamber of Commerce and the Business Improvement District ("BID") in April 2022.

Staff recommends that those businesses who take part in the Streetary Program be allowed to use 1-2 parking spaces for Streetary use. Guidance is incorporated for aesthetics, traffic safety, use of overhead structures, electricity and heating, and other elements of the program.

In addition, staff discussed initial fees for the Program starting December 1, 2022, with the goal of having fees be periodically reviewed and adjusted, on an as-needed basis by the City Council in its discretion. Staff proposes an Annual Rental Fee of \$3,600 per parking space starting on December 1, 2022. The charge offsets the revenue otherwise generated by meters into the City's Parking Services Enterprise Fund, calculated based on average meter revenue generated in the benchmark pre-COVID year of 2019. Staff recommends discounting the Annual Fee by 50% in the first year (December 1, 2022 through and including December 31, 2023) and 25% in the second year (January 1, 2024 through and including December 31, 2024). The full Annual Fee will be charged beginning January 1, 2025.

Staff time for application processing will also be offset with a one-time Streetary Application Fee of \$2,000. Staff are proposing to waive this fee for the first year from December 1, 2022, through and including December 31, 2023. If an overhead structure, lighting, electrical connections, or fixed heat lamps are requested, a building permit will be required.

Lastly, a \$2,000 refundable deposit will be collected to offset the cost of maintaining and/or removing the streetary should the participant fail to do so. If no maintenance is required by the City and the restaurant removes the streetary when it is no longer needed, the deposit will be returned.

Structures created during the temporary program will be allowed to continue but will need to apply for the new program, pay the appropriate fees, and be compliant with the new guidance as needed.

**COMMUNITY OUTREACH:**

Staff from Economic Development have been attending monthly meetings of the Chamber of Commerce, as well as the Business Improvement District, where San Rafael businesses regularly attend, have input, and can ask questions. Members of these meetings have been made aware since January 2022 that this Streetary Program is in process.

Staff conducted one on one meetings with these external partners soliciting feedback on the draft guidelines and then iterating amongst the cross-departmental City staff team to revise and refine program details.

These guidelines were first presented at the Economic Development Subcommittee in April 2022, with detailed discussion and feedback that led to the formation of a Streetary Task Force, consisting of members from the Chamber of Commerce leadership as well as the BID (Joanne Webster, Josh Townsend, Brad Rogerson, Roger Smith, Diane Glischinski, Jed Greene, Sarah Tipple), who reviewed and commented on these guidelines in April 2022.

At the suggestion and direction of the Economic Development Subcommittee, staff also invited and received feedback from several local restaurant business owners in April, May, and June 2022.

Staff also received additional feedback from community members asking to ensure streetaries get used sufficiently to make up for the lost parking and to be made more aesthetically inviting and additive to the San Rafael economy.

**FISCAL IMPACT:**

This is an informational report, there are no fiscal impacts at this time.

**OPTIONS:**

The City Council has the following options to consider on this matter:

1. Accept informational report and approve staff recommendation.
2. Direct staff to return with more information.
3. Direct staff to return with a revised recommendation.
4. Take no action.

**RECOMMENDED ACTION:**

Staff recommends that City Council accept the informational report and recommends approving the attached Streetary Program Guidelines so that staff can then draft a Resolution and Ordinance for Council approval at a future meeting. San Rafael businesses with existing Streetaries will then have sufficient time to make their existing structures compliant with the new Streetary Program.

**ATTACHMENTS:**

1. Streetary Program Guidelines

**CITY OF SAN RAFAEL**  
**STREETARY PROGRAM GUIDELINES**

The City of San Rafael has developed a Streetary Program that allows for streetary installations in most commercial areas of the City to continue after temporary permits issued during the COVID-19 emergency expire on November 30, 2022. Parklets will be rebranded as “Streetaries”.

Outdoor dining is currently allowed under San Rafael Municipal Code Section 14.16.277, *Use of City Sidewalks and Rights-of-Way for Outdoor Eating Areas*. This ordinance, in place since 2000, requires that the business enter into a license agreement with the City, provide liability insurance, provide a site plan for the proposed outdoor seating location, and agree to maintain the area. The zoning requirements and performance standards for outdoor dining are also outlined in San Rafael Municipal Code Section 14.17.110, *Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments*.

On August 17, 2015, the City Council adopted Resolution No. 13995, establishing a 3-year pilot program to expand the Outdoor Dining Program to include parklet projects, which provided a process for businesses to use the parking space areas for outdoor dining purposes. On December 3, 2018, the City Council authorized the on-street dining to continue under the same limitations.

To help local businesses during the COVID-19 emergency, on June 1, 2020, the City Council adopted Resolution 14809 authorizing the City Manager, in his discretion, to streamline the approval of permits or other entitlements for use of City sidewalks and on-street parking spaces for business activities of restaurants and retail businesses, waive or reduce application fees, and close portions of designated City streets up to two evenings per week. Permits issued under the temporary emergency authorization will expire on November 30, 2022.

The City of San Rafael has developed these Guidelines to increase the vibrancy and resiliency of our commercial areas by formalizing a new way of using portions of our city streets. The goal is to assist all commercial businesses by allowing permitted streetaries to increase patronage and vitality of our commercial areas, while balancing the needs of our diverse array of businesses. Our focus in developing these Streetary Program Guidelines has been to strengthen safety standards, create a consistent design aesthetic, and ensure fairness in the way that the public right of way is being used.

Temporary Outdoor Dining Program permits issued under the COVID-19 emergency streamlined process will expire on November 30, 2022, after which time all existing and new streetaries will be required to comply with the new Streetary Program Guidelines (hereinafter “Guidelines”). Businesses with existing streetaries will have a thirty-day grace period until December 31, 2022, to comply with these Streetary Program Guidelines by applying for necessary permits/licenses and implementing renovations or removing their structures from city parking spaces at their own expense. Any exceptions to these Guidelines will be reviewed by the City on a case-by-case basis.

Due to the unique circumstances of each proposed streetary location, these Guidelines and specific elements may not be required in all cases. Similarly, there may be instances where City staff requires additional design elements not covered in these Guidelines. The City of San Rafael will review the streetary permit applications and will only approve streetaries that are able to meet the design requirements and are determined by staff to meet SRMC code provisions, and safety, maintenance, and other regulatory standards.

All streetary installations, including those previously installed under the COVID-19 Temporary Outdoor Dining Program, will require a permit or license from the City of San Rafael as of December 1, 2022. Plans must be submitted by the business applying for and operating the streetary (hereinafter "Streetary Sponsor") and permits must be issued by the City prior to any construction or modifications. The streetaries will be subject to a one-time streetary permit/license application fee (hereinafter "Application Fee") and an annual streetary permit/license fee (hereinafter "Annual Fee") as defined in the City Fee Schedule. These fees are nonrefundable. Approved businesses will also be required to submit a streetary deposit (hereinafter "Deposit") that will be returned to the Streetary Sponsor upon satisfactory compliance with the City's streetary cleaning, maintenance, and removal Guidelines contained in this document and the Streetary permit/license issued by the City.

The City reserves the right to monitor and review compliance with these Guidelines as needed and will review each year at the time of annual renewal.

## **I. LOCATION AND SETBACK CRITERIA**

Streetaries are generally allowed in commercial districts along the curbside on public streets where on street parking spaces exist. However, streetaries are not allowed along streets that have traffic restrictions such as peak hour parking restrictions or on streets that have a speed limit greater than 25 mph.

Streetaries can be considered in commercial districts where there are space(s) for on-street parallel parking, including spaces with metered or unmetered parking. Streetaries are not allowed in ADA/handicap parking spaces or any colored curb zones with restrictions on parking.

### **A. Streetary Location Criteria**

#### ***Parking Sufficiency***

Seventy percent (70%) of on-street parking on any block must remain available for vehicles at any given time. Approval will only be granted to a Streetary Sponsor if this condition is met. The City at its sole discretion may consider an exception to this requirement if: 1) more than 70% of on-street parking on a three-block average (the Streetary Sponsor's block and one block in either direction) remains available for vehicle parking; or 2) at least one public parking garage or lot is within one block of the Streetary Sponsor's block.

### **Adjacency to Storefront**

Streetaries may only be installed in parking spaces that are directly in front of the sponsoring business. If a business fronts more than one but less than two parking spaces and fronts more than fifty percent (50%) of the second parking space, the business is eligible to apply for two parking spaces for use as a streetary. Streetaries shared by two adjacent businesses will be considered on a case-by-case basis. A streetary shared by two businesses cannot exceed the frontage for the combined businesses.

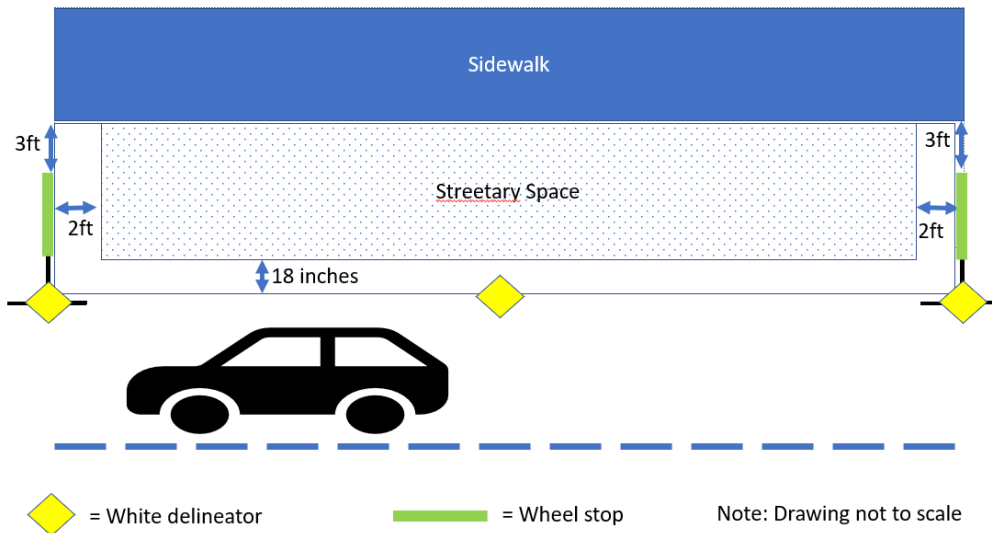
### **Maximum Parking Stalls**

A maximum of two parallel parking spaces shall be used for each streetary. Use of perpendicular and angled parking spaces for a streetary will be considered on a case-by-case basis.

### **Required Streetary Buffers**

Streetaries located in parallel parking spaces can be the length of one or two parallel parking spaces. Wheel stops shall be placed at each end of the parking space. A two-foot inner buffer from each wheel stop on both ends of the parking space is required. See Figure 1 below.

Figure 1: Required Streetary Buffers and Traffic Safety Requirements



### **Corner Locations**

Streetaries located adjacent to intersection crosswalks shall provide a minimum 30-foot setback from the nearest crosswalk. Streetaries that cannot meet these setback requirements may be considered on a case-by-case basis based on whether sight distance and safety can be

maintained, with the City having absolute discretion to determine approval. Storefronts located at corner locations may only have a streetary on one street.

***Fronting Driveways***

Streetaries may not obstruct driveways, ADA ramps, or entrances to City-owned parking facilities.

**B. Streetary Setback Criteria**

***Travel Lane Setback***

Streetaries shall have an eighteen inch minimum setback from the travel lane measured from the parking striping adjacent to the travel lane. In cases where no striping exists, the maximum length of the streetary measured from the face of the curb shall be determined by the Director of Public Works or their designee.

***Side Setback***

Streetaries shall have a two-foot minimum side setback to each wheel stop located at each end of the parking space, as noted in “Figure 1: Required Streetary Buffers and Traffic Safety Requirements” above.

**C. Other Location Criteria**

***Utilities***

Streetaries may not be constructed over or obstruct utility access panels, manhole covers, storm drains, street valves, or any other type of utility assets. A minimum clearance of 4 feet from either side of utility access panels, manhole covers, storm drains, street valves, or any other type of utility assets will be required to allow for maintenance access. Streetaries proposed under overhead utility lines will be required to meet the minimum vertical distance requirements as established by the CPUC. Streetaries that block the outlet of a sidewalk underdrain will be required to ensure the outlet is functional and flowing. Streetary Sponsors must take a thorough inventory of utility access covers in the proposed streetary area by checking under parked cars. Streetary Sponsors must provide for access to any City or public utility company that may have underground conduits beneath the constructed streetary. Access to utilities may require that a Streetary Sponsor temporarily remove all or a portion of the constructed streetary. Streetary Sponsors are responsible for the cost of removing, re-installing and restoring any damage to the streetary.

***Bike Lanes***

Streetaries cannot obstruct a bicycle lane or path.

***Streetary Width***

Streetaries, inclusive of required buffers, must stay within the designated parking stall area.

***Fire Hydrants***

Fire Hydrants shall not be blocked. A 15-foot clearance on either side of the hydrant along the curb shall be maintained. Additionally, three feet of clearance around the hydrant shall be provided.

***Fire Department Connections (FDCs)***

Fire Department Sprinkler and Standpipe hose connections shall remain fully accessible and not blocked or concealed from plain view. All fire department exterior equipment such as post indicator valves, check valves, and OS&Y valves shall be free from obstruction.

**II. STREETARY DESIGN ELEMENTS**

Streetaries generally consist of the following key elements:

- A. PLATFORM** that allows the streetary to serve as an extension of the sidewalks
- B. RAILINGS OR SIDE ENCLOSURES** that demarcate the exterior of the streetary from the street and surrounding parking spaces
- C. TRAFFIC SAFETY PROTECTIONS** to reduce the potential for auto-related damage
- D. OVERHEAD STRUCTURES (optional)**
- E. FURNISHINGS AND FIXTURES**

In order to maintain a cohesive aesthetic throughout the City to enhance beautification and economic vitality, the City is limiting the materials used for any streetary elements to either wood (which can be natural wood or composite material) or metal. The City has identified certain companies that build modular streetaries that are easy to clean and can be stored and reinstalled with ease. Businesses are welcome to design their own or purchase such modular streetaries.

**A. PLATFORM DESIGN CRITERIA**

***Materials***

Platforms must be constructed from wood or metal that can withstand wear and tear of elements. Pouring concrete for streetary platforms is not allowed. You may use concrete pavers on a platform structure instead. Surface materials must be textured or treated with a non-skid coating to ensure a safe walking surface. Loose particles, such as sand or loose stone, are not permitted.

***Maintenance Access***

Streetaries must be designed to provide access under the platform to allow for maintenance (i.e. repairs or clearing debris). If the platform base is not a solid mass, access can be provided through access panels, removable pavers, or other means.

***Platform Threshold***

The platform threshold must be flush and even with sidewalk and must not leave a gap greater than ½ inch, nor a vertical separation greater than ¼ inch.



### ***Drainage***

Platforms must allow for curbside drainage flow. A 12-inch width minimum clear gutter space that matches the curb height must be provided along the entire length of the proposed platform. Openings at either end of the streetary may be covered with screens to prevent debris buildup beneath the platform and in the gutter. It is the responsibility of the streetary permittee to clean the cover or screen to prevent any backup of storm water. All streetaries must provide access through the streetary platform or threshold to the gutter adjacent to the curb.

### ***Affixing Not Allowed***

At no time may structures be bolted or affixed in any way to the roadway or any structure (including but not limited to buildings, fire hydrants, street trees, streetlights, parking meters, or traffic poles, etc.). An exception to this is that wheel stops for traffic protection must be affixed to the roadway as described in the Traffic Protection section of these Guidelines.

### ***Sub-structure***

Designs for the sub-structure of a streetary vary and depend on the slope of the street and overall design for the structure. The sub-structure must accommodate the crown of the road and provide a level surface for the streetary. “Bison pedestals” (pictured below) spaced under the surface and of different heights are a common application. Another method is to provide steel sub-structure and angled beams.

Figure 2: Bison pedestals for streetary sub-structure



### ***ADA Accessibility***

All streetaries must be wheelchair accessible. All accessibility elements of the proposed platform shall be designed, constructed and/or conform to the applicable provisions, rules, regulations and guidelines of the California Building Code and Americans with Disabilities Act.

### ***Accessible Platform Surface***

The portion of the streetary platform connected by the accessible path of travel to the wheelchair turning space and wheelchair resting space must be level. The accessible platform surface maximum cross slope (perpendicular to the sidewalk or curb) and running slope (parallel to the curb) cannot exceed two percent (2%).

### ***Dimensions***

Accessible entry shall be a minimum of forty-eight inches wide. Accessible path of travel must connect the sidewalk to the accessible entry, platform surface, wheelchair turning space and wheelchair resting space. Wheelchair turning space shall be sixty inches in diameter and located entirely within the platform or with a twelve-inch maximum overlap on the curb and sidewalk. Wheelchair landing shall be a thirty-six by forty-eight-inch clear floor area that is permitted to overlap with the Wheelchair Turning Space by twenty-four inches maximum in any orientation.

### **B. RAILINGS / SIDE ENCLOSURES DESIGN CRITERIA**

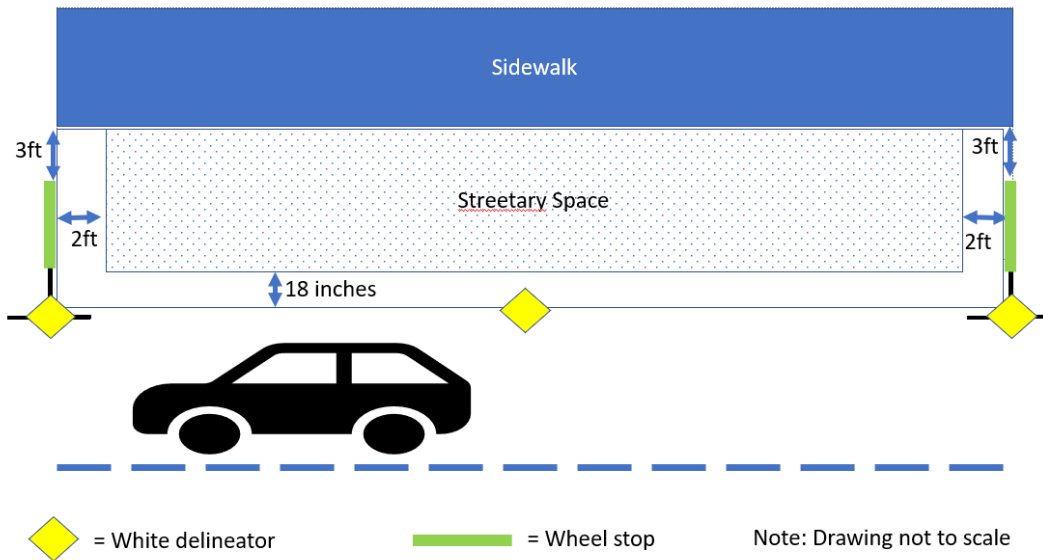
Streetary railings / side enclosures must be constructed from wood or metal that can withstand wear and tear of elements. The streetary railing/side enclosure marks the boundary between the streetary and the street or sidewalk. It should serve as a safe edge while also being visually appealing, permeable, and inviting. The following standards and guidelines should inform your design.

- **Stability:** Stable and sturdy enough not to fall over or be pushed over.
- **Edge buffers from the street:** This can take the form of planters, railing, cabling, or some other appropriate enclosure.
- **Openings in rails:** must prevent passage of 4-inch sphere.
- **Height of railings / side enclosures:** should not exceed 36 inches from the streetary platform floor to the top of the railing.
- **Traffic safety and visibility:** The enclosure should not block the view of conflicting movements of traffic, including pedestrian traffic, nor block the view of traffic control devices such as traffic signs, traffic signals, and other traffic warning devices. All railings/enclosures must have retro-reflective reflectors or retro-reflective tape on the corners of the streetary facing the travel lane such that they are visible by vehicle traffic at night.

### **C. TRAFFIC SAFETY PROTECTIONS**

The water-filled orange barricades and metal rails that served as traffic protection during the Temporary Outdoor Dining Program will be removed after November 30, 2022, and streetaries will be required to provide the traffic protections outlined in this section of the Guidelines.

Figure 1: Required Streetary Buffers and Traffic Safety Requirements



**Wheel Stops** To help protect against moving traffic and parking cars, streetaries in parallel parking spaces must be buffered using a wheel stop at two-feet from the streetary and three-feet from the face of curb. This buffer may also serve as a space for adjacent property owners to accommodate curbside trash collection. Applicants are required to repair any damages to the roadway caused by the installation of the streetary or wheel stops if later removed. Any repairs shall be performed under a separate encroachment permit and in accordance with applicable City standards for roadway construction. Applicants are responsible for the cost of purchasing and installing wheel stops, which will be added as an additional cost at the time of application approval. Payment and installation of wheel stops must occur prior to any construction of the streetary. For approved applicants, the Department of Public Works will source and install wheel stops.

**Vertical Traffic Delineators, Posts or Bollards**

Streetaries shall have vertical elements that make them visible to traffic. White traffic delineators which are flexible posts with retroreflective tape will be the standard requirement. White delineators shall be placed at each corner on the streetary closest to the travel lane with another white delineator at the midpoint and in line with those at the corner. Applicants are responsible for the cost of purchasing and installing these white traffic delineators, which will be added as an additional cost at the time of application approval. For approved applicants, the Department of Public Works will source and install white traffic delineators.

**Travel Lane Clearance**

Streetaries shall provide a minimum eighteen-inch clearance from the edge of the travel lane (measured from the parking striping adjacent to the travel lane) to ensure safe separation from traffic.

#### **D. OVERHEAD STRUCTURES (optional)**

Overhead structures on streetaries are defined as any wall or structure over 6 feet in height, including roofs, overhead trellises, tent shade structures, and wind barriers.

Streetary Sponsors who wish to maintain an existing overhead structure built under the Temporary Outdoor Dining Program must submit an additional building permit application on or before November 30, 2022, that includes detailed plans for the overhead structure that have been designed and engineered by a licensed design professional. These detailed plans must ensure the overhead structure – again defined as any wall or structure over 6 feet in height - can resist wind and seismic loads.

Although the City will consider applications for overhead structures, the City encourages Streetary Sponsors to use high quality outdoor umbrellas for sun and weather protection, instead of overhead structures. The use of umbrellas for sun protection and shade is anticipated to bring an open-air aesthetic and thereby increased vibrancy to areas where streetaries are located.

#### **E. FURNISHINGS AND FIXTURES**

##### ***Wind Protection***

All furnishings and fixtures must be designed to be weighted down so they do not become airborne in a wind event.

Items may need to be stored inside the business during periods of high winds. Weights used must not create tripping hazards for pedestrians.

##### ***Heaters – Additional Building Permit Application May Be Required***

Portable space heaters are permitted if they are an outdoor approved type, are used and located in accordance with the manufacturer's specifications and are located at least two feet from the edge of any overhead structure, umbrella canvas, any foliage, or any other flammable object or material. Heaters are not allowed under overhead structures or umbrellas but can be placed near them if the required two feet clearance is maintained. Natural gas piped heating is not permitted. Fixed heat lamps are discouraged but may be considered on a case-by-case basis upon submission of relevant building permit applications for overhead structures and electrical connections. Portable heaters do not require a building permit application.

##### ***Umbrellas***

Umbrellas shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. No portion of an umbrella canopy shall be less than eighty (80) inches above the streetary platform.

***Electrical connections – Additional Building Permit Application Required***

If electrical connections are desired, Streetary Sponsors must submit a separate Building Permit Application while they submit their Streetary Permit/License Application. An approved Building Permit is required for any existing or proposed electrical connections after December 1, 2022. All wiring and electrical cords must be exterior rated, GFCI protected, and UL listed. Cords must not create tripping hazards on the sidewalk. If the cords cross overhead, they must provide a minimum clearance of 10 feet above the sidewalk and the platform of the streetary. The use of adapters is prohibited. Businesses are not allowed to tap into existing City electrical connections such as twinkle light outlets or streetlight poles. Generators are not allowed in association with streetaries.

***Lighting – Additional Building Permit Application Required***

Streetary Sponsors proposing lighting provided through electrical connections must submit a separate Building Permit Application at the same time that they submit their Streetary Permit/License Application. After December 1, 2022, an approved Building Permit is required for any existing or proposed lighting provided through electrical connections. Solar powered lighting is strongly encouraged. Battery-powered lighting is also an acceptable alternative. Lighting shall not be directed towards the roadway to unintentionally cause glare for vehicles. Light strings must be hung to allow for a minimum clearance of 10 feet above the sidewalk and the platform of the streetary.

***Signage***

No signage is allowed on streetary structures, fixtures, or furnishings.

**III. OPERATIONAL STANDARDS**

***Private Control***

Streetaries will be considered private space under the control of the permit holder. The permit holder is responsible for securing the streetary and any fixtures and furnishings contained within it during hours when the associated business is not in operation so that objects cannot be removed or used as projectiles. Securing the streetary is defined as storing inside the locked business or using cables and padlocks or any other means to prevent vandalism, theft, or damage to property.

***No Outdoor Food Preparation***

Outdoor food preparation is not permitted. No heating, cooking or open flames are permitted in a streetary. Hotpots, barbecues or other heating of food in the public right of way is not allowed.

***No Open Flames***

Candles and open flames are not allowed on the streetaries.

***Alcohol Service***

Restaurants and food establishments licensed by the State of California will be permitted to sell and allow on-premises consumption of alcoholic beverages. Alcohol service is only allowed under full-service conditions and alcoholic beverages consumed in streetaries are not allowed to be provided in to-go containers. Establishments that serve alcoholic beverages in the streetary area shall be required to meet all requirements of the Alcoholic Beverage Control Board and any other federal, state, or local laws and regulations governing the sale and consumption of alcoholic beverages.

***Music***

Streetary Sponsors are required to follow the City’s Municipal Code requirements and existing permitting processes to have amplified music and/or live bands in their streetaries.

***Noise and Disruptive Behavior***

Streetary Sponsors are responsible for ensuring their patrons minimize noise and disruptive behavior while using their streetary space.

***Site Maintenance***

Streetaries shall be maintained free of litter, refuse and debris. The area shall be scrubbed and mopped daily by the permittee to remove any food or drink stains. Such cleaning shall be in accordance with the City’s Storm Water Management and Discharge Control Program, which prohibits any discharge other than rainwater into the storm water drainage system.

***ADA Compliance***

Streetary seating areas must comply with all requirements of the Americans with Disabilities Act (ADA) and provide sufficient clearance and walkway space to allow safe access and egress. For multi-level streetaries, a minimum of one level of access is required. Compliance and related liability issues will be the sole burden of the Streetary Sponsor.

***Hours of Operation***

The streetary shall adhere to the same approved hours of operation as the associated business, with the following limitations. For streetaries that are within 150 foot horizontal or vertical distance from residences: the earliest permitted start times on weekends (Saturday, Sunday, and City Holidays) is 7am; the earliest permitted start times on weekdays Monday to Friday is 6am; the latest permitted end times on Fridays and Saturdays are 10pm; the latest permitted end times from Sunday to Thursday is 9pm. Exceptions to these Guidelines for hours of operation shall be considered on a case by case basis and shall be requested in the Streetary Sponsor’s application.

**Safety and Maintenance Inspections**

The City will be making periodic safety inspections and reserves the right to require adjustments or removal of any elements, if deemed unsafe or not in accordance with Streetary Program Guidelines. In the event of noncompliance, the City reserves the right to use the Streetary Sponsor’s paid Deposit to implement such requirements or withdraw the approved streetary permit and have the streetary removed at the Streetary Sponsor’s expense.

**Insufficient Usage**

Streetaries must demonstrate adequate usage in order to contribute to the economic vitality of the City. The City requires these streetaries to be set up and readily available for use when the rest of the business is open, except in inclement weather. The City has the right to notify any streetary in writing of insufficient usage. After receiving written notice, the Streetary Sponsor will have 30 days to comply, or else the City may deem the streetary abandoned and proceed with removal. The City has the right to use the Streetary Sponsor’s paid Deposit to have the streetary removed and withdraw the approved streetary permit for insufficient usage.

**Subject to Review**

The streetary permit/license is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the City that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

**IV. FEES**

The fees for the exclusive use of the Streetary are proposed to ensure that the public right-of-way will be enhanced in ways that will facilitate its successful use by private businesses. Initial fees for the Program starting December 1, 2022, are set forth below. All fees may be reviewed and adjusted annually or on an as needed basis by the City Council in its discretion. The City Manager will have the discretion to waive or reduce any and all fees set forth in these Guidelines.

**Application Fee**

All applicants, whether approved or denied, will be charged a \$2,000 application fee for costs that cover city staff time to process and review each application. Application fees will not be refunded. In order to assist businesses with the transition into this program, this application fee will be waived by the City from December 1, 2022, through and including December 31, 2023.

**Annual Rental Fee**

Approved streetary permits/licenses will require an annual fee calculated on the basis of the average value of each parking space to the City and the public. The annual fee for each parking space will be set initially at \$3,600. If the approved start date is after January 1, that year’s fee

will be prorated on a monthly basis. The next annual fee payment must be made in advance and will be due on December 1 for the following year. Annual fees not paid within 30 days of the approved start date will be subject to removal. Annual fees will not be refunded.

***Deposit***

A Streetary Sponsor is required to pay a one-time Deposit of \$2,000 prior to issuance/final approval of the streetary permit/license. The City reserves the right to deduct from this Deposit for any noncompliance in payment of fees, maintenance, removal, and general enforcement costs for the streetary. If the balance of the deposit falls below \$100, the Streetary Sponsor will be invoiced to replenish the funds to \$2,000. Permits/licenses will be revoked for any streetary with an unpaid deposit replenishment after 30 days of invoicing. Any unused funds of the deposit will be refunded to the Streetary Sponsor once the streetary is relinquished.

Any streetary approval will be conditional upon payment of the application fee, an annual fee, deposit, and prepayment for installation of wheel stops and white traffic delineators. Both the annual fee payment and deposit are due prior to the first day of approved operation.

1. REQUIRED: Streetary Permit/License Application Fee: \$2,000
2. OPTIONAL: Building Permit Application Fee for Optional Overhead Structure, Electrical Connections or Lighting, or Fixed Heat Lamps (as per Master Fee Schedule)
3. UPON APPROVAL AND PRIOR TO ISSUANCE OF STREETARY PERMIT/LICENSE: Annual Fee for Each Parking Space (paid upfront): \$3,600 Per Space Per Year
4. UPON APPROVAL OF STREETARY PERMIT/LICENSE: Maintenance and Removal Deposit: \$2,000
5. UPON APPROVAL OF AND PRIOR TO ISSUANCE OF STREETARY PERMIT/LICENSE: Upfront payment for installation of wheel stops and white traffic delineators as required by these Guidelines

Any fees related to the Streetary Program may be adjusted by the City as needed at the City's sole discretion.

**V. INSURANCE**

Streetary Sponsors must obtain and submit to the City certificates of insurance, including but not limited to:

1. General Commercial Liability Insurance of [no less than \$1 million per occurrence and \$2 million aggregate, with the City as an additional insured on a primary and noncontributory basis
2. Workers Compensation Insurance of no less than \$1 million



Insurance requirements related to the Streetary Program may be adjusted by the City as needed at the City's sole discretion.

## **VI. STREETARY PERMIT/License REQUIREMENTS AND APPLICATION PROCESS**

### ***Streetary Permit Requirements***

1. Application: Streetary Permit/License Application
2. Agreements: Streetary Permit/License Agreement
3. Prepayment of Fees and Deposit as stated in the Fees section.

A Streetary permit/license is required for all streetary installations, including those that were in place prior to November 30, 2022.

### ***Application Process***

As streetaries are located in the public right of way, the Department of Public Works will be the lead department receiving application materials and issuing streetary permits/licenses. Public Works will coordinate with other relevant departments and communicate feedback and decisions to the Streetary Sponsor.

The City is committed to reviewing filed applications as expeditiously as possible and will endeavor to provide a response after an initial round of review within thirty business days. Further rounds of review may require additional time.

The Streetary Permit/License Application will have two forms, one required and one optional:

1. Streetary Permit/License Application Form (required for all applicants)
3. Building Permit Application Form (Optional: this is required if streetary will have a structure above 6 feet in height and/or electrical or lighting)

The Streetary Permit/License Application must be submitted and approved prior to the construction of any new streetary or the modification of any streetary permitted under the prior Temporary Outdoor Dining program. In addition to the two application forms, the following submittals are required:

- a. Plan sets are required for both custom design streetaries and modular streetaries. For custom designed streetaries without an overhead structure, it is recommended that plans are prepared by a design professional, such as an architect or engineer. Streetary Sponsors requesting an overhead structure are required to submit plans that have been designed and engineered by a licensed design professional. The submitted plans should show the proposed layout of the streetary including:
  - i. The streetary location (business frontage, site address, parking space number, etc.)

- ii. Dimensions of parking stalls, streetary structure including platform, railings, overhead structure (if applicable), stormwater access, and traffic travel lanes in immediate area and in the proposed streetary.
  - iii. Traffic protection measures and dimensions of the setbacks from adjacent parking spaces and adjacent traffic lane.
  - iv. Location of any adjacent public utilities in the street including curb drains, manhole covers, water shut-off valves, sidewalk utility boxes, streetlight poles, parking meters, gutter drains, fire hydrants, parking meters, etc.
  - v. Plans must demonstrate ADA accessibility and show dimensions of required clearances
- b. Materials palette – Use color photo samples to demonstrate
    - i. Materials and plants to be used on platform
    - ii. Railing materials
    - iii. Platform materials
    - iv. Overhead structure materials (if applicable)
  - c. A valid City of San Rafael Business Tax Certificate, sometimes referred to as a business license.
  - d. Evidence of current insurance coverage including a Certificate of Liability Insurance and Endorsements

## **VII. MAINTENANCE**

The City reserves the right to monitor and review compliance with these Guidelines as needed and will review each year at the time of annual renewal. The City reserves the right to use all or part of the Streetary Sponsor's refundable deposit if necessary to ensure compliance with these maintenance Guidelines.

### ***Cleanliness***

Streetary Sponsors must keep their streetary clean, free of debris and trash, and must be responsible for pest control as needed.

### ***Wear and Tear***

Streetary Sponsors are responsible for the upkeep of their streetary to ensure that it remains attractive and adds to the economic vitality of the area in which it is located. Old, worn down or damaged parts of the streetary must be replaced at the owner's expense as needed or as requested by the City.

### ***Safety***

Streetary Sponsors must keep their streetary compliant with the safety guidelines outlined herein as well as the in the City's municipal codes.

***ADA Accessibility***

Streetary Sponsors must keep their streetary compliant with ADA accessibility requirements. Compliance and related liability issues will be the sole burden of the Streetary Sponsor.

***Failure to Maintain***

Streetary Sponsors who fail to properly and sufficiently maintain cleanliness, condition, safety, and accessibility of their streetary may be subject to violations and fines. If maintenance issues are not resolved, the City may revoke the permit/license and Streetary Sponsors may be required by the City to remove the streetary at their own expense. The City may use the funds from the Streetary Sponsor's Deposit to remove a streetary in this case, if the Streetary Sponsor fails to cooperate with removal.

***Utility Maintenance and Public Safety Emergencies***

Because streetaries may sit atop buried utilities, there may be instances where your streetary will need to be temporarily removed to access a utility beneath it. In the event of necessary utility maintenance or the unlikely event of a utility failure such as a gas leak or water main break that threatens public safety, the City or utility owner may remove streetaries with little or no notice. Streetary Sponsors are solely responsible for the cost of removing, storing, repairing, and re-installing their streetary in order for such maintenance or emergencies to be addressed without delay or hindrance. The City may use the funds from the Streetary Sponsor's Deposit to remove a streetary in this case, if the Streetary Sponsor fails to cooperate with removal.

***Temporary Public Works Projects, Public Maintenance, and Emergency Repairs***

The City and other agencies conduct temporary renovation projects, public maintenance and emergency repairs from time to time, which may impact any given streetary. In this case, the City will provide best efforts to provide sufficient notice but may need to remove streetaries with little or no notice. Streetary Sponsors are solely responsible for the cost of removing, storing, and re-installing their streetary in order for such projects to proceed without delay or hindrance. The City may use the funds from the Streetary Sponsor's Deposit to remove a streetary in this case, if the Streetary Sponsor fails to cooperate with removal. For ease of removal and reinstatement at such times, the City recommends that Streetary Sponsors consider modular streetary designs that are sturdy yet easily movable.

**VIII. TERMINATION OF AGREEMENT AND STREETARY REMOVAL**

The City has the right to remove any streetary to protect public interest and in response to non-compliance with these Guidelines. The City reserves the right to terminate this program for any reason as determined by the City Council.

The Streetary Sponsor may decide at any point in time that they no longer wish to operate a streetary.

In this case, the Streetary Sponsor is responsible for notifying the City in writing email to [streetary@cityofsanrafael.org](mailto:streetary@cityofsanrafael.org) on the earliest of the following:

at least 30 days prior to the renewal and annual fee payment deadline  
at least 30 days prior to vacating the connected commercial property  
within 7 days of going out of business

Within 30 days of providing written notice to the City or upon vacating the connected commercial property, whichever occurs first, the Streetary Sponsor is responsible for removing the streetary and cleaning and restoring the parking space to its previous condition to the satisfaction of the City and at the streetary owner's own expense. If the Streetary Sponsor does not comply with the City's requirements for removal, cleaning and restoration, the City maintains discretion to use the Deposit for such removal, cleaning, and restoration costs, and the Deposit shall not be refunded back to the Streetary Sponsor.

Approval of the landlord or property owner of the Streetary's brick and mortar location not owned by the City is not required for the business to obtain a streetary permit. A streetary permit is non-transferable to a landlord or any other person. However, if a tenant terminates their streetary agreement and leaves their streetary in place or otherwise abandons the streetary, the landlord or property owner may take over the existing streetary for a maximum period of 6 months after the tenant leaves the property associated with the Streetary, provided that the Streetary is in full compliance with these Guidelines. The landlord or property owner taking over the streetary must submit a new application, sign necessary agreements, and pay all the related fees (application and annual) and refundable deposit, prior to taking over the streetary. After the 6 months expire, the City may use the landlord's deposit funds to have the streetary removed according to the Streetary Program Guidelines.

**FOR MORE INFORMATION**

For questions or additional information regarding these Streetary Program Guidelines, the Streetary Permit/License Application, or related optional Building Permit Applications, please contact Department of Public Works at [streetary@cityofsanrafael.org](mailto:streetary@cityofsanrafael.org).