



AGENDA

SAN RAFAEL CITY COUNCIL - MONDAY, SEPTEMBER 19, 2022

REGULAR MEETING AT 7:00 P.M.

In-Person:

San Rafael City Council Chambers
1400 Fifth Avenue, San Rafael, CA 94901

Participate Virtually:

Watch on Zoom Webinar: <https://tinyurl.com/CC-2022-09-19>

Watch on YouTube: www.youtube.com/cityofsanrafael

Listen by phone: (669) 900-9128

ID: 899-2635-9885

One Tap Mobile: US: +16699009128,,89926359885#

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Assembly Bill 361, the City of San Rafael is offering teleconference without complying with the procedural requirements of Government Code section 54953(b)(3). This meeting will be held in-person, virtually using Zoom and is being streamed to YouTube at www.youtube.com/cityofsanrafael.

How to participate in the meeting in-person:

- Stay home if you are experiencing COVID-19 symptoms.
- Face coverings are recommended for attendees.
- Use the sign-in sheet (optional) which allows notification of potentially exposed individuals if contact tracing reveals COVID-19 transmission may have occurred in a given meeting.
- Attendance will be limited to 50 percent of room capacity (no more than 90 persons) and all in-person attendees should socially distance as recommended by public health authorities. If the Chambers are 50% occupied, please participate online instead or utilize the audio feed in the lobby.
- All attendees are encouraged to be fully vaccinated.

How to participate in the meeting virtually:

- Submit public comment in writing before 4:00 p.m. the day of the meeting to city.clerk@cityofsanrafael.org.
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and press *9 to raise your hand, and *6 to unmute yourself, then provide verbal public comment.

Any member of the public who needs accommodations should contact the City Clerk (email city.clerk@cityofsanrafael.org or phone at 415-485-3066) who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM – 5:00 PM

Dial-in: (669) 444-9171, Meeting ID# 895-8038-9114#

1. Mayor Kate to announce Closed Session items.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM – 5:00 PM

2. Closed Session

- a. Conference with Legal Counsel--Anticipated Litigation
Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2): 1 case

OPEN TIME FOR PUBLIC EXPRESSION

The public is welcome to address the City Council at this time on matters not on the agenda that are within its jurisdiction. Please be advised that pursuant to Government Code Section 54954.2, the City Council is not permitted to discuss or take action on any matter not on the agenda unless it determines that an emergency exists, or that there is a need to take immediate action which arose following posting of the agenda. Comments may be no longer than two minutes and should be respectful to the community.

CITY MANAGER AND COUNCILMEMBER REPORTS:

(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

3. City Manager and Councilmember Reports:

CONSENT CALENDAR:

The opportunity for public comment on consent calendar items will occur prior to the City Council's vote on the Consent Calendar. The City Council may approve the entire consent calendar with one action. In the alternative, items on the Consent Calendar may be removed by any City Council or staff member, for separate discussion and vote.

4. Consent Calendar Items:

- a. **Approval of Minutes**
Approve Minutes of City Council Regular Meeting of September 6, 2022 (CC)
Recommended Action - Approve minutes as submitted
- b. **Use of Teleconferencing for Public Meetings During State of Emergency**
Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for the Use or Continued Use of Teleconferencing to Hold Public Meetings of the City's Legislative Bodies During the Continuing State of Emergency Relating to the Covid-19 Pandemic (CA)
Recommended Action - Adopt Resolution
- c. **Vacancies on San Rafael Boards and Commissions**
Announcement of Vacancies on the Voter Approved Tax Oversight Committee (CC)
Recommended Action - Receive and file
- d. **Agreement for Disbursement of Measure A Tax Proceeds and Measure A Work Plan for July 1, 2022 - June 30, 2023**
Resolution Authorizing the City Manager to Execute an Agreement with the County of Marin for Disbursement of Measure A Tax Proceeds and Approving the Measure A Work Plan for July 1, 2022 - June 30, 2023 (LR)
Recommended Action - Adopt Resolution
- e. **Office of Traffic Safety Grant Approval**
Resolution Approving the Acceptance and Appropriation of State of California Office of Traffic Safety Grant Funds in the Amount of \$138,000 for the "Selective Traffic Enforcement Program" ("STEP") Grant from October 1, 2022 Through September 30, 2023,

and Authorizing the City Manager to Execute a Grant Agreement and Any Other Documents Related to the Grant (PD)

Recommended Action - Adopt Resolution

PUBLIC HEARING

5. Public Hearing:

a. **“Streetaries” Outdoor Eating Areas Ordinance**

Introduce an Adding Chapter 11.70 (“Streetaries” Outdoor Eating Areas) to Title 11 (Public Works) of the San Rafael Municipal Code; Amending Section 14.16.277 of Chapter 14.16 (Site Use and Regulations), Section 14.17.110 of Chapter 14.17 (Performance Standards), Section 14.05.020 of Chapter 14.05 (Commercial and Office Districts), Section 14.06.020 of Chapter 14.06 (Industrial Districts) and Section 14.08.020 of Chapter 14.08 (Marine District) of Title 14 (Zoning) of the San Rafael Municipal Code; and Amending Table 2.3.070.A (Use Table) of Chapter 9 (Downtown Form-Based Code) of the Downtown San Rafael Precise Plan Relating to Outdoor Eating Areas in the Public Right-of-Way (PW)

Recommended Action - Waive further reading and Introduce the Ordinance

b. **Boards & Commissions Updates**

Resolution and Ordinance Changes to Existing City Boards and Commissions (CC):

i. Introduce an Ordinance of the City of San Rafael Amending Sections 2.16.030 Through 2.16.033 of the San Rafael Municipal Code Related to the Board of Library Trustees
Recommended Action - Waive further reading and Introduce the Ordinance

ii. Resolution Amending the Board of Library Trustees Bylaws
Recommended Action - Adopt Resolution

iii. Introduce an Ordinance of the City of San Rafael Amending Section 14.25.070 and Adding Sections 2.16.120 Through 2.16.122 of the San Rafael Municipal Code Related to the Design Review Board
Recommended Action - Waive further reading and Introduce the Ordinance

iv. Resolution Amending the Design Review Board Bylaws
Recommended Action - Adopt Resolution

v. Introduce an Ordinance of the City of San Rafael Amending Sections 2.16.010 Through 2.16.013 of the San Rafael Municipal Code Related to the Fire Commission
Recommended Action - Waive further reading and Introduce the Ordinance

vi. Resolution Amending the Fire Commission Bylaws
Recommended Action - Adopt Resolution

SAN RAFAEL SUCCESSOR AGENCY:

1. Consent Calendar: - None.

ADJOURNMENT:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online and at City Hall, 1400 Fifth Avenue, and placed with other agenda-related materials on the table in front of the Council Chamber prior to the meeting. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing

city.clerk@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request. To request Spanish language interpretation, please submit an online form at <https://www.cityofsanrafael.org/request-for-interpretation/>.



MINUTES

SAN RAFAEL CITY COUNCIL – TUESDAY, SEPTEMBER 6, 2022

REGULAR MEETING AT 7:00 P.M.

In-Person:

**San Rafael City Council Chambers
1400 Fifth Avenue, San Rafael, CA 94901**

Participate Virtually:

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Listen by phone: (669) 900-9128

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Present: Mayor Kate
 Vice Mayor Kertz
 Councilmember Bushey
 Councilmember Hill
 Councilmember Llorens Gulati

Absent: None

Also Present: City Manager Jim Schutz

Mayor Kate called the meeting to order at 7:03 p.m.

City Attorney Robert Epstein announced that no reportable action was taken in the Closed Session held on Monday, August 29, 2022.

Mayor Kate invited City Clerk Lindsay Lara to call the roll. All members of the City Council were present.

Mayor Kate provided opening remarks, which included a recent use of force incident by San Rafael Police Officers. She explained how City Council meetings work and outlined how the meeting would go for the night.

City Clerk Lindsay Lara announced the process for Spanish interpretation tonight. She informed the community that the in-person meeting would also be recorded and streamed live to YouTube and through Zoom, and members of the public would provide public comment either on the telephone or through Zoom. She explained the process for community participation on the telephone, through Zoom and in-person.

OPEN SESSION

1. None.

CLOSED SESSION

2. None.

OPEN TIME FOR PUBLIC EXPRESSION

- Samantha Ramirez, J. Inez Benavidez, Marina, Sanchez, Mark Solomons, Rita Dempsey, Tonatich Beltran, Rita Dempsey, Tonatich Beltran, Alejandrina Espadas, Florencia Parada, Belle Marko, Alejandra Godinez, Nathalie F., Yolanda Barahona, Maite Duran, Jonathan Frieman, Kate Linforth, Nury Calderon, Tiffany Pham, Ashley Allen, Saul G., Brenda Camarena, Angel Gomez, Cindy Diaz, Gabriel Garcia, Cesar Lagleva, Salamah Locks, Edward Rusky, Cristina Godinez, Areli Machued, Danielle Hone, Eva Chrysanthe, Dhalma Suarez, Holly Middleton, Mr. Calderon, Gabriel, name withheld, Alejandra Godinez, Adriana, Cindy Diaz addressed the City Council regarding the recent use of force incident by San Rafael Police Officers.
- Capella Parrish addressed the City Council requesting signs be placed on both sides of the 1500 block of 4th St. from F St. to Shaver St. that prohibits skateboarding.

RECESS (9:06 - 9:18 pm)

OPEN TIME FOR PUBLIC EXPRESSION (CONTINUED)

- Heidi, Tom McAfee, Lisa Bennett, Phoebe Smith, name withheld, Matteo Diaz, Matthew Siroka, Jack Parnell-Wolfe, Jacqueline Devereaux, Rosalindo Camacho, Freddy Camacho Oviedo, Mr. Camacho, Lucia Martel-Dow, Francisco Camacho, name withheld, Jasmine, Nancy Palacios Devereaux, name withheld, Daniel Levy, Lisa Scarsella, Lisa Doering, Andreas, Evelyn Mazariegos, name withheld, Jessica Mena Flores, name withheld, name withheld, Romario Conrado, Sage Mace, Joe McGarry, Giuliana Martinez, Olivia Beltran, name withheld, Barry, Lizeth Carrillo, name withheld, name withheld, name withheld, name withheld addressed the City Council regarding the recent use of force incident by San Rafael

Police Officers.

City Attorney Robert Epstein responded to the public comments about the recent use of force incident by San Rafael Police Officers and explained what the City is going to do about it.

CITY MANAGER AND COUNCILMEMBER REPORTS:

(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

3. City Manager and Councilmember Reports:

Continued to September 19, 2022

CONSENT CALENDAR:

Mayor Kate invited public comment on all Consent items, 4.a through 4.k.

Speakers: Bob Overick, Elise Adams, Joseph Adams, name withheld, Mark Solomons, Michael Jobe, Sarah Tipple (Business Improvement District BID)

Mayor Kate pulled Item 4.i from the Consent Calendar for further discussion.

Councilmember Bushey moved and Councilmember Llorens Gulati seconded to approve the Consent Calendar, excluding Item 4.i.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: None

4. Consent Calendar Items:

a. **Approval of Minutes**

Approve Minutes of City Council Regular Meeting of August 1, 2022 and City Council Special Meetings of August 8, 2022 and August 29, 2022 (CC)

Approved minutes as submitted

b. **Conflict of Interest Code Update**

Resolution Repealing Resolution No. 14855, Re-Adopting the Fair Political Practices Commission Model Conflict of Interest Code as the City's Conflict of Interest Code, and Adopting a Revised List of Designated Employee Positions and Disclosure Categories, to be Incorporated into the City's Conflict of Interest Code (CC)

Resolution 15117 - Resolution Repealing Resolution No. 14855, Re-Adopting the Fair Political Practices Commission Model Conflict of Interest Code as the City's Conflict of Interest Code, and Adopting a Revised List of Designated Employee Positions and Disclosure Categories, to be Incorporated into the City's Conflict of Interest Code

c. **Restructure of Voter Approved Tax Measure Oversight Committees**

Resolution Establishing and Adopting Bylaws of the Voter Approved Tax Oversight Committee; Appointing the Voter Approved Tax Oversight Committee as the Transaction and Use Tax Oversight Committee, the Special Library Parcel Tax Oversight Committee, the Independent Oversight Committee Over the Cannabis Industry Tax Revenues, and as the Independent Oversight Committee Over Voter Approved City Tax Measures; and Dissolving the Existing Transaction and Use Tax Oversight Committee, the Special Library Parcel Tax Oversight Committee, and the Cannabis Industry Tax Oversight Committee (CC)

Resolution 15118 - Resolution Establishing and Adopting Bylaws of the Voter Approved Tax Oversight Committee; Appointing the Voter Approved Tax Oversight Committee as the Transaction and Use Tax Oversight Committee, the Special Library Parcel Tax Oversight Committee, the Independent Oversight Committee Over the Cannabis Industry Tax Revenues, and as the Independent Oversight Committee Over Voter Approved City Tax Measures; and Dissolving the Existing Transaction and Use Tax Oversight Committee, the Special Library Parcel Tax Oversight Committee, and the Cannabis Industry Tax Oversight Committee

- d. **Use of Teleconferencing for Public Meetings During State of Emergency**
Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for the Use or Continued Use of Teleconferencing to Hold Public Meetings of the City's Legislative Bodies During the Continuing State of Emergency Relating to the Covid-19 Pandemic (CA)

Resolution 15119 - Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for the Use or Continued Use of Teleconferencing to Hold Public Meetings of the City's Legislative Bodies During the Continuing State of Emergency Relating to the Covid-19 Pandemic

- e. **Animal Care Facilities Ordinance**
Final Adoption of Ordinance 2015: An Ordinance Amending the Text of the San Rafael Municipal Code, Table 14.05.020 Under Section 14.05.020, Land Use Regulations (GC, NC, O, C/O, R/O, FBWC) to Allow Animal Care Facilities as a Conditionally Permitted Use in the Office (O) District Subject to Performance Standards; Amending the Text of Table 14.06.020 Under Section 14.06.020, Land Use Regulations (I, LI/O, CCI/O, LMU) to Subject Animal Care Facilities to Performance Standards; and Amending Text of Chapter 14.17 to Establish Performance Standards for Animal Care Facilities (CC)

Final adoption of Ordinance 2015

- f. **Support of the Digital Marin Strategic Plan**
Resolution in Support of the Digital Marin Strategic Plan (DS)
Resolution 15120 - Resolution in Support of the Digital Marin Strategic Plan

- g. **National Preparedness Month**
Proclamation Supporting National Preparedness Month (FD)
Received and filed

- h. **Hispanic Heritage Month**
Proclamation Supporting Hispanic Heritage Month (HR)
Received and filed

- i. **Special Event Street Closures in Downtown San Rafael**
Resolution Authorizing Closures of Fourth Street Between F Street and G Street on October 6th, 7th and 14th to support the limited extension of outdoor events including the San Rafael Thursday and Friday Night Block Party (PD)

This item was held from the Consent Calendar.

City Manager Jim Schutz provided comments.

Councilmembers provided comments.

Councilmember Bushey moved and Councilmember Hill seconded to adopt the resolution,

with instructions to Staff to work with the Business Improvement District (BID) at this time to work at finding a compromise on items that can be adjusted to accommodate the neighbors' interests.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: None

Resolution 15123 - Resolution Authorizing Closures of Fourth Street Between F Street and G Street on October 6th, 7th and 14th to support the limited extension of outdoor events including the San Rafael Thursday and Friday Night Block Party

- j. **San Rafael Inter Department Fleet Replacement FY2022-23
Resolution Approving and Authorizing the City Manager to Purchase Fourteen (14) Vehicles Across City Departments for Replacement, In an Amount Not to Exceed \$1,034,100 (PW)**

Resolution 15121 - Resolution Approving and Authorizing the City Manager to Purchase Fourteen (14) Vehicles Across City Departments for Replacement, In an Amount Not to Exceed \$1,034,100

- k. **Stormwater Pump Station Repairs
Resolution Authorizing the City Manager to Waive Competitive Bidding and Award and Execute an Agreement for the Performance of Stormwater Pump Station Repairs to Pump Repair Service Company in the Amount of \$345,686, and Authorizing Contingency Funds of \$34,614 for a Total Appropriated Amount of \$380,300 (PW)**

Resolution 15122 - Resolution Authorizing the City Manager to Waive Competitive Bidding and Award and Execute an Agreement for the Performance of Stormwater Pump Station Repairs to Pump Repair Service Company in the Amount of \$345,686, and Authorizing Contingency Funds of \$34,614 for a Total Appropriated Amount of \$380,300

SPECIAL PRESENTATIONS

5. Special Presentations:

- a. **Proclamation in Support of Suicide Prevention and Awareness (Fin)**

Mayor Kate invited public comment; however, there was none.

Mayor Kate presented the proclamation.

Nadine Hade, Administrative Services Director provided comments.

PUBLIC HEARING

6. Public Hearing:

- a. **Continued to September 19, 2022 - "Streetaries" Outdoor Eating Areas Ordinance**

Introduction of an Ordinance of the City of San Rafael adding Chapter 11.70 ("Streetaries" Outdoor Eating Areas) to Title 11 (Public Works) of the San Rafael Municipal Code; amending Section 14.16.277 of Chapter 14.16 (Site Use and Regulations), Section 14.17.110 of Chapter 14.17 (Performance Standards), Section 14.05.020 of Chapter 14.05 (Commercial and Office Districts), Section 14.06.020 of Chapter 14.06 (Industrial Districts) and Section 14.08.020 of Chapter 14.08 (Marine District) of Title 14 (Zoning) of the San

Rafael Municipal Code; and Amending Table 2.3.070.a (Use Table) of Chapter 9 (Downtown Form-Based Code) of the Downtown San Rafael Precise Plan Relating to Outdoor Eating Areas in the Public Right-of-Way (PW)

Continued to September 19, 2022

b. Boards & Commissions Updates

Resolution and Ordinance Changes to Existing City Boards and Commissions (CC):

- i. Introduce an Ordinance of the City of San Rafael Amending Sections 2.16.030 Through 2.16.033 of the San Rafael Municipal Code Related to the Board of Library Trustees
Recommended Action - Waive further reading and Introduce the Ordinance
- ii. Resolution Amending the Board of Library Trustees Bylaws
Recommended Action - Adopt Resolution
- iii. Introduce an Ordinance of the City of San Rafael Amending Section 14.25.070 and Adding Sections 2.16.120 Through 2.16.122 of the San Rafael Municipal Code Related to the Design Review Board
Recommended Action - Waive further reading and Introduce the Ordinance
- iv. Resolution Amending the Design Review Board Bylaws
Recommended Action - Adopt Resolution
- v. Introduce an Ordinance of the City of San Rafael Amending Sections 2.16.010 Through 2.16.013 of the San Rafael Municipal Code Related to the Fire Commission
Recommended Action - Waive further reading and Introduce the Ordinance
- vi. Resolution Amending the Fire Commission Bylaws
Recommended Action - Adopt Resolution

Continued to September 19, 2022

OTHER AGENDA ITEMS:

7. Other Agenda Items:

- a. **Grand Jury Report - Affordable Housing: Time for Collaboration in Marin**
Resolution Approving and Authorizing the Mayor to Execute the Response to the Marin County Civil Grand Jury Report Entitled - Affordable Housing: Time for Collaboration In Marin (CD)
Recommended Action - Adopt Resolution

Continued to September 19, 2022

- b. **Agreement for Disbursement of Measure A Tax Proceeds and Measure A Work Plan for July 1, 2022 - June 30, 2023**
Resolution Authorizing the City Manager to Execute an Agreement with the County of Marin for Disbursement of Measure A Tax Proceeds and Approving the Measure A Work Plan for July 1, 2022 - June 30, 2023 (LR)
Recommended Action - Adopt Resolution

Continued to September 19, 2022

SAN RAFAEL SUCCESSOR AGENCY:

1. Consent Calendar: - None.

ADJOURNMENT:

Mayor Kate announced the remainder of the business items on the Agenda to be continued to a future council meeting. She adjourned the meeting at 11:29 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2022

KATE COLIN, Mayor

DRAFT



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Attorney

Prepared by: Genevieve Coyle,
Assistant City Attorney

City Manager Approval: _____

A handwritten signature in blue ink, appearing to be the initials 'JS', written over a horizontal line.

TOPIC: USE OF TELECONFERENCING FOR PUBLIC MEETINGS DURING STATE OF EMERGENCY

SUBJECT: RESOLUTION PURSUANT TO ASSEMBLY BILL 361 MAKING FINDINGS AND CONFIRMING THE NEED FOR THE USE OR CONTINUED USE OF TELECONFERENCING TO HOLD PUBLIC MEETINGS OF THE CITY'S LEGISLATIVE BODIES DURING THE CONTINUING STATE OF EMERGENCY RELATING TO THE COVID-19 PANDEMIC

RECOMMENDATION:

Adopt the resolution pursuant to Assembly Bill 361 making findings and confirming the need for the use or continued use of teleconferencing to hold public meetings of the City's legislative bodies during the continuing state of emergency relating to the COVID-19 pandemic.

BACKGROUND:

The Ralph M. Brown Act ("Brown Act") requires that except as specifically provided, "meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body". (Gov. Code §54953(a).) For many years, the Brown Act has authorized members of a local agency's legislative body to attend a public meeting by teleconference in compliance with strict procedural requirements. Under Government Code section 54953(b)(3), to use teleconferencing, at least a quorum of the legislative body must participate from locations within the agency's boundaries, and the agency must give notice of each teleconference location, post an agenda at each teleconference location, provide for public access to each teleconference location, and allow members of the public to address the Council at each teleconference location.

On March 4, 2020, Governor Newsom declared a statewide state of emergency in connection with the COVID-19 pandemic. Subsequently, on March 18, 2020, the Governor issued Executive Order [No. N-29-20](#) suspending the Brown Act's requirements for in-person meetings and facilitating the use of teleconferencing for public meetings during the state of emergency. The Executive Order authorized public meetings to be held by teleconference only, provided that notice and accessibility requirements are met, members of the public are allowed to observe and address the legislative body at the meeting, and there is a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities. This order allowed the City Council and the City's other formal boards and commissions to hold their public meetings using teleconferencing technologies until the order expired on

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

September 30, 2021. On September 16, 2021 Governor Newsom signed into law as an urgency measure Assembly Bill (AB) 361. [AB 361](#) amended the Brown Act provisions governing the use of teleconferencing for public meetings of a local agency's legislative bodies, allowing more liberal teleconferencing requirements to continue during the current and future state-declared emergencies. Therefore, since October 1, 2021, the City has relied on the amendments enacted by AB 361 as its authority to continue to hold meetings using teleconferencing technologies.

Government Code section 54953, as amended by AB 361, now provides in new subsection (e)(1), that during the current and any future state-declared state of emergency, the legislative body of a local agency may use teleconferencing without complying with the procedural requirements of Government Code section 54953(b)(3) in any of three circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Certain additional requirements would apply under the new law, however, including specific requirements as to how public comment must be allowed and heard, with which the City already complies. In addition:

- In the event of a disruption which prevents the City from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.
- If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:
 - The legislative body has reconsidered the circumstances of the state of emergency.
 - Any of the following circumstances exist:
 - (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - (ii) State or local officials continue to impose or recommend measures to promote social distancing.

ANALYSIS:

The City Council has determined that it is now safe to hold in person meetings in the City Council Chambers, and the Council held its first such meeting on April 18, 2022. Other boards and commissions that meet in the City Council Chambers will also be able to meet in person. The City Council Chambers are roomy enough to allow for social distancing in most cases and are now equipped with teleconferencing equipment that also allows participation in public meetings from other locations. This hybrid meeting model provides an alternative means to attend for those persons who feel they cannot safely attend in person, as well as for those persons who may find it more convenient to participate in the meetings through teleconferencing.

However, the City Council also holds special meetings at locations not in the City Council Chambers and staff has determined that the hybrid meeting model set up for these meetings has not provided sufficient space for social distancing and negatively impacts public participation through virtual means. Additionally, not all City boards and commissions meet in the City Council Chambers. Staff has not yet been able to make comparable arrangements for hybrid meetings in those other meeting locations. Therefore, staff recommends that the City Council continue to adopt the resolution required by AB 361, so that the City's legislative bodies meeting outside the City Council Chambers can meet or continue to meet using teleconferencing technology. These include special meetings of the City Council and meetings of the City's boards and commissions.

The resolution before the City Council is intended to comply with the requirement to make specified findings every 30 days. The resolution finds that the state of emergency continues in effect, that measures to promote social distancing are still being imposed or recommended by the state and county, and that the state of emergency directly impacts the ability of the public and the members of the City's Council, boards, and commissions to meet safely in person. The proposed resolution confirms the City Council's determination that all public meetings of the City's legislative bodies (the Council and all formal boards and commissions) may continue to be held using only teleconferencing technology.

FISCAL IMPACT:

There is no fiscal impact associated with the adoption of the attached resolution.

OPTIONS:

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

1. Adopt the resolution as proposed.
2. Adopt a modified resolution.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt the resolution pursuant to Assembly Bill 361 making findings and confirming the need for use or continued use of teleconferencing to hold public meetings of the City's legislative bodies during the continuing state of emergency relating to the COVID-19 pandemic.

ATTACHMENTS:

1. Resolution

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL PURSUANT TO ASSEMBLY BILL 361 MAKING FINDINGS AND CONFIRMING THE NEED FOR THE USE OR CONTINUED USE OF TELECONFERENCING TO HOLD PUBLIC MEETINGS OF THE CITY'S LEGISLATIVE BODIES DURING THE CONTINUING STATE OF EMERGENCY RELATING TO THE COVID-19 PANDEMIC

WHEREAS, on March 4, 2020 Governor Newsom issued a proclamation pursuant to Government Code Section 8625 declaring a state of emergency in California due to the COVID-19 pandemic; and

WHEREAS, the Ralph M. Brown Act (Gov. Code §§ 54950 et seq.) (hereafter, the "Brown Act") provides in Government Code section 54953 that "all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided by this chapter"; and

WHEREAS, Government Code section 54953(b)(3) permits the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law, subject to specified procedural requirements including, but not limited to, the posting of agendas at all teleconference locations, the opportunity for members of the public to address the legislative body directly at each teleconference location, and that at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the legislative body exercises jurisdiction; and

WHEREAS, Government Code section 54953(e), added by Assembly Bill 361 effective September 16, 2021, provides, in section 54953(e)(1), that during a state of emergency proclaimed pursuant to Government Code section 8625, the legislative body of a local agency may hold a meeting using teleconferencing without complying with the procedural requirements of section 54953(b)(3), provided that the legislative body complies with the requirements of section 54953(e)(2); and

WHEREAS, pursuant to Government Code section 54953(e)(3), if a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, then in order to continue to teleconference without compliance with the requirements of section 54953(b)(3), the legislative body shall make specified findings at least every 30 days; and

WHEREAS, the City Council has reconsidered the circumstances of the proclaimed COVID-19-related state of emergency and finds that it remains active; and

WHEREAS, the City Council finds that state and/or local officials continue to impose or recommend measures to promote social distancing, including masking in certain indoor public settings; and

WHEREAS, the City Council finds that the state of emergency directly impacts or continues to directly impact the ability of the City's legislative bodies to meet safely in person,

including special meetings of the City Council and meetings of the City's boards and commissions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Rafael that in order to protect the safety of the members of the public and its legislative bodies, for the 30 days following adoption of this resolution, public meetings of the City's legislative bodies may continue to be held using teleconferencing technology in compliance with the requirements of Government Code section 54953(e)(2) and all other applicable laws.

I, **Lindsay Lara**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 19th day of September 2022 by the following vote, to wit:

AYES: Councilmembers:


NOES: Councilmembers:

ABSENT: Councilmembers:

Lindsay Lara, City Clerk



Agenda Item No: 4.c
Meeting Date: September 19, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT
Department: City Clerk's Office
Prepared by: Lindsay Lara, City Clerk
City Manager Approval: 

TOPIC: VACANCIES ON SAN RAFAEL BOARDS AND COMMISSIONS
SUBJECT: ANNOUNCEMENT OF VACANCIES ON THE VOTER APPROVED TAX OVERSIGHT COMMITTEE

RECOMMENDATION:
Receive and file the announcement of upcoming vacancies on San Rafael's Boards and Commissions.

BACKGROUND:
The City Clerk's office is currently recruiting to fill vacancies on our boards and commissions. Community members can apply online to serve on our boards and commissions, and more information and eligibility requirements are as follows:

Voter Approved Tax Oversight Committee

Board Description: The Voter Approved Tax Oversight Committee's purpose is to review the collection and expenditure of voter approved tax revenues collected under the authority of voter-approved City tax measures and [Resolution 15118](#) adopted by the San Rafael City Council on September 6, 2022.

Term: Three four-year terms
Two two-year terms

2022 Meeting Schedule: To be determined following appointments

Eligibility Requirements: Members of the Committee shall be at least 18 years of age and reside within the City limits.

Application Deadline (subject to extension): Thursday, September 29, 2022 or open until filled.

COMMUNITY OUTREACH:
The recruitment for applications is being advertised through mass email notification, the City's website, social media platforms, as well as physically posted at City facilities and the City Clerk's office. Additionally, the City Clerk's office publishes information about how residents can learn about vacancies in the "In Your Town" section of the *Marin IJ* on a quarterly basis.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

RECOMMENDED ACTION:

Receive and file the announcement of upcoming vacancies on San Rafael's Boards and Commissions.




Agenda Item No: 4.d
Meeting Date: September 19, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Library & Recreation

Prepared by: Craig Veramay,
Assistant Library & Recreation
Director

City Manager Approval: _____ 

TOPIC: AGREEMENT FOR DISBURSEMENT OF MEASURE A TAX PROCEEDS AND MEASURE A WORK PLAN FOR JULY 1, 2022 – JUNE 30, 2023

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE COUNTY OF MARIN FOR DISBURSEMENT OF MEASURE A TAX PROCEEDS AND APPROVING THE MEASURE A WORK PLAN FOR JULY 1, 2022 – JUNE 30, 2023

RECOMMENDATION:
Adopt a resolution authorizing the City Manager to execute an agreement with the County of Marin for Disbursement of Measure A tax proceeds and approving the Measure A Work Plan for July 1, 2022 – June 30, 2023.

BACKGROUND:
In November 2012, an ordinance (“Measure A”) of the County of Marin was approved by a two-thirds majority of the electors voting on the Measure. Measure A imposes a nine year one-quarter of one percent retail transactions and use tax that is administered by the County of Marin. The purpose of Measure A is to support the preservation of Marin County parks, open space preserves and farmland. In its first nine years, the tax has generated an average of \$14 million per year for parks, open spaces, and farmland preservation across Marin. This level of revenue changes during the life of the Measure due to the variability in annual receipts.

Measure A included a sunset provision, and the ordinance expired on March 31, 2022. In June 2022, voters approved re-implementation of Measure A. In accordance with this law, for the next nine years, funds raised by Measure A will continue to be spent on parks and open space, sustainable agriculture, recreation in Marin's nineteen cities and towns, and land acquisition. The newly re-implemented rate will go into effect on October 1, 2022, and is being administered by the County of Marin via its Ordinance No. 3760. The rate will remain in effect until September 30, 2031, and may be further renewed by the voters.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

Park Capital Improvement Projects	FY13-14 to FY15-16	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21	FY21-22	Total
Albert Park Playground		\$37,761	\$50,618	\$221,957				\$310,336
Victor Jones Playground		\$80,275	\$19,725					\$100,000
Bret Harte Park Restroom			\$2,183	\$170,798				\$172,981
Pickleweed Park Field Conversion					\$6,523	\$9,359		\$15,882
Albert Park Stadium Field Fencing					\$41,593			\$41,593
Sun Valley Playground Upgrades						\$4,429	\$128,587	\$133,016
Citywide Park and Recreation Master Plan							\$277,009	\$277,009
Total	\$252,493	\$118,036	\$72,526	\$392,755	\$48,116	\$13,788	\$405,596	\$1,309,530

Historically, the City has used Measure A funding to support four general activities: park maintenance, vegetation management, protection of open space and park improvements. For FY2022-23, Measure A funds will be focused on park improvement projects. The planned expenditures total \$780,000, which includes the \$206,806 FY2022-2023 allocation as well as carry-over funds from previous years.

- **Park Capital Improvements and Maintenance:** In FY 2022-2023, the City will rely on \$780,000 from Measure A funding to support the following projects:
 - **\$35,000** will be used to support additional project scope in the development of a comprehensive, Citywide Parks and Recreation Master Plan that is intended to be integrated with the City’s General Plan. The Master Plan will provide a framework for directing City resources toward parks, facilities, and programs, and for addressing current and future community recreational needs over the next ten (10) years.
 - **\$335,000** will be used to construct a new playground at Sun Valley Park that will improve ADA accessibility and improve community members experience. Additional Prop 68 Per Capita funding will be allocated in FY2022-23 for the implementation of this project.
 - **\$240,000** will be used to improve the fencing at Albert Park Field.
 - **\$100,000** will be used to fund the creation of a citywide Trail Master Plan as part of the proposed Open Space and Trails Master Plan.
 - **\$70,000** will be used to install replacement room divider partitions at the Terra Linda Community Center and the Albert J. Boro Community Center. The current equipment is inoperable, limiting use of these community resources.

These planned expenditures are summarized in the Measure A Work Plan for July 1, 2022 through June 30, 2023 (Attachment 2). While all projects proposed under the Measure A Work Plan are included in the approved FY 2022-23 CIP, the proposed expenditures vary slightly, as they reflect an updated Measure A fund balance and more recent project budget estimates.

Additionally, with the renewal of Measure A, Marin County is requesting a new agreement for disbursement of tax proceeds, which is included as Attachment 3.

FISCAL IMPACT:

City Council has already appropriated \$300,000 of Measure A funding for Fiscal Year 2022-23. Approving the Measure A Work Plan would authorize the appropriation of an additional \$480,000 of restricted tax proceeds from Fund 241, the Measure A Open Space Fund.

OPTIONS:

The City Council has the following options to consider relating to this item:

1. Adopt a resolution authorizing the City Manager to execute an agreement with the County of Marin for disbursement of “Measure A” tax proceeds and approving the FY 2022-23 Measure A Work Plan.
2. Adopt a resolution as amended, authorizing the City Manager to execute an agreement with the County of Marin for disbursement of “Measure A” tax proceeds and approving the FY 2022-23 Measure A Work Plan.
3. Do not adopt a resolution authorizing the City Manager to execute an agreement with the County of Marin for disbursement of “Measure A” tax proceeds and approving the FY 2022-23 Measure A Work Plan and provide direction to staff.

RECOMMENDED ACTION:

Adopt a resolution authorizing the City Manager to execute an agreement with the County of Marin for Disbursement of “Measure A” tax proceeds and approving the Measure A Work Plan for July 1, 2022 – June 30, 2023.

ATTACHMENTS:

1. Resolution – Measure A
2. Exhibit A to Resolution: Measure A Work Plan
3. Draft grant agreement for disbursement of tax proceeds between County of Marin and City of San Rafael

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE COUNTY OF MARIN FOR DISBURSEMENT OF MEASURE A TAX PROCEEDS AND APPROVING THE MEASURE A WORK PLAN FOR JULY 1, 2022 – JUNE 30, 2023

WHEREAS, on November 6, 2012 Marin County voters passed Measure A, a one-quarter of one percent transactions and use tax, dedicated to parks and open space for the duration of nine years; and

WHEREAS, on June 7, 2022 Marin County voters approved the renewal of Measure A for an additional nine-year period, that will remain in effect October 1, 2022 through September 30, 2031, and may be further renewed by voters; and

WHEREAS, fifteen percent of the Measure A revenues is earmarked for Marin municipalities for the purpose of managing parks, open space preserves, recreation programs and vegetation; and

WHEREAS, the County of Marin is responsible for the administration of the Measure A funds, and has developed a form of agreement and program materials for use by Marin municipalities; and

WHEREAS, the City of San Rafael is eligible to receive Measure A funds, and entered into an agreement with the County of Marin in October of 2013, submitting a Work Plan of Expenditures for the first year of fund disbursement; and

WHEREAS, the City of San Rafael is projected to receive a total of \$206,806 for FY 2022-2023, to support the Work Plan; and

WHEREAS, the County of Marin requires a Work Plan for the proposed Expenditure of Measure A funds in the amount of \$206,806 for July 1, 2022 – June 30, 2023.

NOW, THEREFORE, BE IT RESOLVED by the San Rafael City Council that the City Manager is authorized to execute an agreement with the County of Marin and to make any necessary, mutually acceptable changes to the agreement, once approved as to form by the City Attorney, to establish the relationship between the parties with respect to the disbursement of Measure A proceeds, and the accounting for Measure A fund expenditures, and to take other actions necessary to fulfill this intent; and

BE IT FURTHER RESOLVED that the San Rafael City Council approves the Measure A Work Plan for Proposed Expenditure of Measure A funds for July 1, 2022 - June 30, 2023, a copy of which is hereby attached as Exhibit A and by this reference made a part hereof; and

BE IT FURTHER RESOLVED that the Administrative Services Director is authorized to execute, on behalf of the City of San Rafael, the Work Plan for Proposed Expenditure of Measure A funds for July 1, 2022 to June 30, 2023.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on Monday, the 19th day of September 2022, by the following vote, to wit:

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

LINDSAY LARA, City Clerk



Work Plan

Measure A City, Town, and Applicable Special District Program Proposed Expenditure of Measure A Funds for July 1, 2022 to June 30, 2023

Timely and accurate completion of this report is a condition of receiving Measure A funds.

Instructions:

- This work plan must be completed by an authorized representative of the recipient.
- Please complete this work plan, then scan and e-mail it to Kevin Wright, Marin County Parks External Affairs Manager (kwright@marincounty.org), by July 1, 2022.
- Contact Mr. Wright by e-mail (kwright@marincounty.org) or phone (415) 497-3553 if you have any questions, or if you have suggestions to improve this form.
- Marin County Parks will review this plan within one month of its receipt to ensure that proposed expenditures are consistent with Marin County Ordinance 3586 (Measure A).
- Recipients must provide Marin County Parks with 30-days prior notice of any project additions or substitutions that are proposed while a work plan is in effect.
- Total actual project expenditures may not exceed recipient's actual Measure A funding for any given fiscal year, plus any balance remaining from previous years.

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A. Name of Recipient (city, town, or special district): City of San Rafael

B. Recipient's representative and contact information: (Please print all information)

Name: Nadine Atieh Hade
(Print)

Title: Administrative Services Director
(Print)

Address: 1400 Fifth Avenue, Suite 204

City, Zip: San Rafael, CA 94901

Phone: 415-485-3062

E-mail: Nadine.Hade@cityofsanrafael.org

C. Total estimated funds for Fiscal Year 2022-23:

i. Estimated carry-over balance of recipient's Measure A funds from previous fiscal years	ii. Estimate of recipient's Measure A funds for FY 2022-23. (This information will be provided by Marin County Parks)	iii. Total estimated available funds for FY 22-23 (i + ii).
\$ 575,000	\$ 206,806	\$ 781,806

D. Recipient's Measure A Work Plan for Fiscal Year 2022-23:

Name of work or project:	Primary purpose of work or project. Select only one from list below. **	Description. Be as specific as possible. Include numbers related to square footage of facilities, acreage, etc. If Measure A funds were used for maintenance, use numbers to indicate change from pre-Measure A conditions.	Amount of Measure A funds estimated to be used:	Source(s) and amount(s) of matching funds projected for use. If none, enter "0"	Total expenditures projected for work or project in current reporting year
Park Planning	B	Creation of a Citywide Park & Recreation Master Plan	\$ 35,000	0	\$ 35,000
Park Improvements	B	Replace playground and improve ADA accessibility at Sun Valley Park	\$ 335,000	0	\$ 335,000
Trail Planning	B	Creation of a Citywide Trail Master Plan, as part of the Open Space and Trails Master Plan	\$ 100,000	0	\$ 100,000
Field Improvements	B	Design for improved fencing at Albert Park Field	\$ 240,000	0	\$ 240,000
Community Center Improvements	B	Replacing room dividers at Albert J Boro and Terra Linda Community Centers	\$ 70,000	0	\$ 70,000
Estimated Total					\$780,000

****Select work or project purpose only from the following menu:**

- a) Routine maintenance
- b) Renovation of existing recreational facility, including infrastructure (includes planning, environmental review, permitting, design development, etc.)
- c) Construction of new park or recreation facility (includes planning, environmental review, permitting, design development, etc.)

- d) Parkland acquisition
- e) Fuel reduction - all types of fuelbreaks, including primary, ridgeline, etc.
- f) Flashy fuel reduction (ROW, street ends, trail heads, etc.)
- g) Natural resource protection and restoration, and invasive plant control
- h) Maintaining vehicle access
- i) Sudden Oak Death
- j) Hazard tree removal
- k) Inventory and monitoring
- l) Wildlife management monitoring
- m) Vegetation and wildlife management - Other-

E. Certification

I certify that the information contained herein is true and accurate, to the best of my knowledge.

Signature

Title

Print Name

Date

GRANT AGREEMENT FOR DISBURSEMENT OF TAX PROCEEDS

BETWEEN

COUNTY OF MARIN

AND

CITY OF _____
TOWN OF _____
_____ DISTRICT

This Grant Agreement (hereinafter "AGREEMENT") is made and entered into this ___ day of MONTH, 2022, by and between the County of Marin, a political subdivision of the State of California (hereinafter "COUNTY"), and the CITY/TOWN of _____, or _____ DISTRICT (hereinafter "CITY/TOWN/DISTRICT"), a political subdivision of the State of California, collectively hereinafter the "PARTIES".

Recitals

Whereas, the Marin Parks, Open Space, and Sustainable Agriculture Transactions and Use Tax Ordinance 3760 (hereinafter "MEASURE A"; attached as Exhibit A) was approved by Marin County voters on June 7, 2022; and

Whereas, upon becoming operative on October 1, 2022, MEASURE A applies to any unspent fund balance from the Marin Parks, Open Space, and Farmland Preservation Transactions and Use Tax Ordinance 3586, which became effective April 1, 2013.

Whereas, MEASURE A levies a one-quarter of one-percent transactions and use tax (hereinafter "sales tax") in Marin County and is estimated to generate approximately \$16,000,000 per year for the nine year life of the measure; and

Whereas, the MEASURE A Expenditure Plan, included in Exhibit A, allocates fifteen percent (15%) of the revenues from the sales tax increment to a City, Town, and Applicable Special District Program (hereinafter "PROGRAM") to assist Marin's municipalities and applicable special districts in managing their parks, open space preserves, recreation programs, and vegetation to promote biodiversity and reduce wildfire risk; and

Whereas, the term, "applicable special districts," means a local public entity located wholly within the unincorporated area of Marin that was explicitly formed to provide services to the community for park and recreation purposes and/or park and recreation purposes plus open space. Applicable special districts do not include federal agencies, state agencies, extensions of the County government (i.e. Community Service Areas) and/or districts located within an incorporated town or city even if such agencies or districts provide services to the community for recreation, open space or recreation programming.

Whereas, COUNTY is charged with the fiduciary duty to administer the MEASURE A sales tax proceeds consistent with applicable laws; and

Whereas, MEASURE A, requires that an allocation method be used as a means to determine the amount of funding each municipality and applicable special district receives on an annual basis from the PROGRAM; and

Whereas, the Ordinance 3586 allocation method approved by the Marin County Board of Supervisors on December 17th, 2013, a copy of which is attached hereto and made a part hereof (hereinafter "ALLOCATION METHOD"; Exhibit B), has been updated with current census information and will be used to determine funding allocations under this PROGRAM; and

Whereas, the objective of this AGREEMENT is to continue a mutually beneficial relationship between PARTIES to disburse and account for MEASURE A fund expenditures;

Therefore, PARTIES are entering into this AGREEMENT.

Statement of Agreement

1. It is mutually agreed and understood that, upon signing of this AGREEMENT:
 - a. COUNTY is responsible for allocating, managing, accounting for, and disbursing all PROGRAM funds.
 - b. COUNTY will disburse PROGRAM funds to CITY/TOWN/DISTRICT semiannually (two times per fiscal year), as follows:
 - i. Disbursement 1 will occur in or about July each year, conditional upon receipt by Marin County Parks of an Annual Measure A Work Plan prepared by CITY/TOWN/DISTRICT, in the form attached as Exhibit C, by July 1st of the same calendar year. Disbursement 1 will consist of PROGRAM funds from Measure A revenue received from the California Department of Tax and Fee Administration during the preceding January 1st through June 30th period and allocated to the CITY/TOWN/DISTRICT according to the ALLOCATION METHOD. If CITY/TOWN/DISTRICT submits its Annual Measure A Work Plan after July 1st, Disbursement 1 shall occur approximately 30 days subsequent to submittal.
 - ii. Disbursement 2 will occur in or about January, conditional upon receipt by Marin County Parks, by November 15th of the same fiscal year, of an Annual Measure A Expenditure Report prepared by CITY/TOWN/DISTRICT, in the form attached as Exhibit D, describing actual expenditures for the preceding fiscal year. Disbursement 2 will consist of PROGRAM funds from Measure A revenue received from the California Department of Tax and Fee Administration during the preceding July 1st through December 31st period and allocated to the CITY/TOWN/DISTRICT according to the ALLOCATION METHOD. If CITY/TOWN/DISTRICT submits its Annual Measure A Expenditure Report after November 15th, Disbursement 2 may be delayed. Late Expenditure Reports will delay annual reporting on Measure A, and the work of the Measure A Community Oversight Committee.

CITY/TOWN/DISTRICT is encouraged to produce Annual Measure A Expenditure Reports on time.

- iii. COUNTY will make every effort to make disbursements within the time periods specified above, and shall not willfully delay or withhold PROGRAM funds for reasons other than those stated in this AGREEMENT, but shall not be responsible for the consequences if disbursements are delayed for any reason. Disbursements will occur by electronic transfer.
 - iv. CITY/TOWN/DISTRICT Annual Measure A Work Plans and Expenditure Reports shall account for any unspent revenue and unreported expenditures from Ordinance 3586.
- c. CITY/TOWN/DISTRICT's allocation of PROGRAM funds must be used as described in Exhibit A to this AGREEMENT. Only the following uses are allowed:
- i. Manage parks, open spaces, and recreational programming.
 - ii. To maintain, restore and/or renovate existing parks, preserves and recreational facilities.
 - iii. To construct new parks and recreational facilities or acquire parklands.
 - iv. To engage in vegetation management to reduce wildfire risk, promote biodiversity or control invasive non-native weeds on private, municipal, or district lands.
- d. Without changing the ALLOCATION METHOD, COUNTY may review and adjust CITY/TOWN/DISTRICT's population numbers every three years, beginning with the date of this AGREEMENT. COUNTY shall provide CITY/TOWN/DISTRICT's with notice of any adjustments.
- e. For CITY/TOWN/DISTRICT's budgeting purposes, COUNTY will provide an estimate of a CITY/TOWN/DISTRICT's annual allocation for the coming fiscal year on or about March 1st, for as long as the tax is in effect. COUNTY will base the estimate on the annual budget approved by the Board of Supervisors and account for an estimated delay in payment from the sales tax is assessed to the time a payment is made to COUNTY of three (3) months. Actual allocation may be higher or lower than the estimate due to variability in annual tax receipts.
- f. CITY/TOWN/DISTRICT is not required to match funds.
- g. CITY/TOWN/DISTRICT will segregate PROGRAM funds from other funds available to it. CITY/TOWN/DISTRICT must ensure that PROGRAM funds are not commingled with other funds not pertaining to MEASURE A. This can be achieved by either establishing a separate bank account dedicated solely to MEASURE A, or by establishing and accounting for MEASURE A financial transactions in a special revenue fund dedicated solely to MEASURE A.

- h. CITY/TOWN/DISTRICT need not expend its annual allocation of PROGRAM funds in a single fiscal year. Allocations may accumulate with the CITY/TOWN/DISTRICT and carry over into multiple, successive fiscal years if, for example, CITY/TOWN/DISTRICT wishes to use the funds for a program, project or projects that cannot be funded with a single year allocation.
- i. CITY/TOWN/DISTRICT will expend the sum total of its annual allocations by 10 years after the date MEASURE A expires. On that date, PROGRAM funds not expended by CITY/TOWN/DISTRICT shall revert and be due to COUNTY.
- j. CITY/TOWN/DISTRICT's Annual Measure A Work Plans shall be due as stated in item "b" above.
- k. CITY/TOWN/DISTRICT is responsible for ensuring that environmental review and permitting requirements are fulfilled, if applicable, for all projects receiving Measure A funds.
- l. CITY/TOWN/DISTRICT will spend Measure A funds solely on project or program costs. Project or program costs are defined as costs associated with staff, contractors, consultants or materials related to projects identified in the Annual Measure A Work Plan.
- m. The accuracy of CITY/TOWN/DISTRICT's Annual Measure A Expenditure Reports will be certified by the CITY/TOWN/DISTRICT's chief fiscal officer.
- n. COUNTY may audit CITY/TOWN/DISTRICT's expenditure of PROGRAM funds and any unspent allocation balances.
- o. COUNTY will assist CITY/TOWN/DISTRICT to establish or continue practices and procedures, as reasonably necessary, to facilitate CITY/TOWN/DISTRICT's fulfillment of its responsibilities pursuant to this AGREEMENT.
- p. CITY/TOWN/DISTRICT will repay the COUNTY any funds that the COUNTY has disbursed which are not used in accordance with this AGREEMENT unless there has been prior written agreement between the PARTIES stating otherwise.

2. Indemnification

CITY/TOWN/DISTRICT shall defend, indemnify, hold harmless, and release COUNTY, its elected and appointed officials, officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses (hereinafter "LIABILITY") that may be asserted by any third party arising out of or in connection with CITY/TOWN/DISTRICT'S performance under or the making of this AGREEMENT, except to the extent that LIABILITY is caused by the negligence or willful misconduct of COUNTY.

COUNTY shall defend, indemnify, hold harmless, and release CITY/TOWN/DISTRICT, its elected and appointed officials, officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses (hereinafter "LIABILITY") that may be asserted by any third party arising out of or in connection with COUNTY'S performance under or the making of this AGREEMENT, except to the extent that LIABILITY is caused by the negligence or willful misconduct of CITY/TOWN/DISTRICT.

3. Replacement

Beginning on October 1, 2022 this AGREEMENT replaces the Ordinance 3586 agreement signed by CITY/TOWN/DISTRICT on December 17, 2013 related to the administration of PROGRAM funds.

4. Duration and Termination

The terms of this AGREEMENT shall remain in full force and effect for 10 (ten) years from the date adopted and signed. Any party may terminate this AGREEMENT by notifying the other party a minimum of 30 (thirty) days in advance.

5. Contacts and Notices

All notices under this Agreement shall be in writing (unless otherwise specified) delivered to the parties by electronic mail, hand, by commercial courier service, or by United States mail, postage prepaid, addressed to the parties at the addresses set forth below or such other addresses as the parties may designate by notice.

For County:

Director and General Manager
Marin County Parks
3501 Civic Center Drive, Suite 260
San Rafael, CA 94903
Phone: (415) 473-6387
Fax: (415) 473-3795
Email: MKorten@marincounty.org

For City, Town or District:

Title
Name of City/Town/District
Address
Phone
Fax
E-mail

6. NO THIRD PARTY BENEFICIARIES

Nothing contained in this agreement shall be construed to create, and the PARTIES do not intend to create, any rights in third parties.

7. EXPENSES

Except as otherwise provided in Section 2 of this AGREEMENT, each party shall be solely responsible for and shall bear all of its own respective legal expenses in connection with any dispute arising out of this AGREEMENT and the transactions hereby contemplated. PARTIES may not use PROGRAM funds for the aforementioned purpose.

8. INTEGRATION

This AGREEMENT, including Exhibits A, B, C and D which are attached hereto and incorporated herein by reference, represents the entire AGREEMENT of the PARTIES with respect to the subject matter thereof. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein.

9. AMENDMENT

Except as otherwise provided herein, this AGREEMENT may not be changed, modified or rescinded except in writing, signed by all PARTIES hereto, and any attempt at oral modification of this AGREEMENT shall be void and of no effect.

10. SEVERABILITY

Should a court of competent jurisdiction rule or declare that any part of this AGREEMENT is unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this AGREEMENT, which shall continue in full force and effect; provided that the remainder of this AGREEMENT can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the PARTIES.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT on the day and year above written.

CITY, TOWN OR DISTRICT

Mayor or other authorized representative

Attest:

Clerk of the City/Town/District

Approved as to Form:

CITY/TOWN/DISTRICT COUNSEL

By: _____

COUNTY OF MARIN

President, Board of Supervisors

Attest:

Clerk of the Board

Approved as to Form:
COUNTY COUNSEL

By: _____

EXHIBIT A

Marin County Ordinance No. 3760

EXHIBIT B

Allocation Method

EXHIBIT C

Form of Annual Measure A Work Plan

EXHIBIT D

Form of Annual Measure A Expenditure Report



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Police Department

Prepared by: Todd Berringer, Lieutenant

City Manager Approval: _____

A handwritten signature in black ink, appearing to be 'JS', written over a horizontal line.

TOPIC: OFFICE OF TRAFFIC SAFETY GRANT APPROVAL

SUBJECT: RESOLUTION APPROVING THE ACCEPTANCE AND APPROPRIATION OF STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY GRANT FUNDS IN THE AMOUNT OF \$138,000 FOR THE “SELECTIVE TRAFFIC ENFORCEMENT PROGRAM” (“STEP”) GRANT FROM OCTOBER 1, 2022 THROUGH SEPTEMBER 30, 2023, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT AND ANY OTHER DOCUMENTS RELATED TO THE GRANT

RECOMMENDATION:

Staff recommends that the City Council adopt the resolution approving the acceptance and appropriation of State of California Office of Traffic Safety grant funds in the amount of \$138,000 for the “Selective Traffic Enforcement Program” (“STEP”) grant from October 1, 2022 through September 30, 2023 and authorizing the City Manager to execute a grant agreement and any other documents related to the grant.

BACKGROUND:

For the past twenty years, the Office of Traffic Safety (OTS) of the State of California has awarded over two million dollars in traffic safety grants to the City of San Rafael. These grants have included the Marin County “Avoid the Marin 13” Driving Under the Influence (DUI)/ Driver’s License (DL) campaign, Click it or Ticket grants, DUI Mini grants, DUI Enforcement and Awareness grants, and STEP grants. Each of the grants have provided critical traffic enforcement and education operations by funding the deployment of officers for DUI / DL checkpoints, DUI saturation patrols, red light and speed enforcement, seat belt enforcement, and distracted driving enforcement. As of October 1st, 2016, OTS no longer offers the countywide “Avoid the Marin 13” grants. The only funding available is through the Selective Traffic Enforcement (STEP) grant program. This development has greatly reduced our funding for traffic and DUI related enforcement activities.

The San Rafael Police Department (SRPD) currently has two officers assigned full-time to traffic enforcement. This is down from seven full-time officers in 2007. The San Rafael Police Department has encouraged patrol officers and traffic officers to conduct enforcement focused on reducing alcohol and speed-related collisions, along with increased pedestrian and bicycle safety.

The San Rafael Police Department Community Outreach and Social Media teams regularly disseminate traffic safety information in a bilingual format.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

ANALYSIS:

OTS has approved a grant of \$138,000 to the City of San Rafael. The project goal of this OTS grant is to reduce the number of persons killed or injured in vehicle collisions involving alcohol, speed, red light violations and other primary collision factors, by implementing “best practice” strategies. Enforcement and education have shown to be critical in reducing vehicle collisions. The grant will provide the necessary resources for traffic enforcement and education operations.

The acceptance and implementation of this \$138,000 grant is critical to maintain traffic safety levels in San Rafael. Collision data from years 2020 through 2021 indicated that most of the city’s collisions occurred due to unsafe turns, excessive/unsafe speed, red-light violations, driving under the influence of drugs and/or alcohol and unsafe starting. The Police Department recognizes that additional education and enforcement is needed to reduce these numbers.

The SRPD encourages patrol and traffic officers to conduct focused enforcement for reducing alcohol-, pedestrian-, and speed-related collisions. However, current staffing levels inherently limit the frequency by which more proactive traffic enforcement efforts can occur because officers are primarily focused on responding to emergency calls for service.

Should the City Council approve this grant, the San Rafael Police Department will have the resources to implement numerous enforcement programs including, but not limited to, various safety and awareness campaigns, enforcement operations, and a program to identify repeat DUI offenders. The grant also includes funding for officer trainings and enforcement operations for distracted driving, motorcycle safety, and bicycle/pedestrian safety, among others.

Operations for this grant will be scheduled between October 1, 2022 and September 30, 2023.

The SRPD will report statistics quarterly to the Office of Traffic Safety and the grant will be evaluated by how well the stated goals and objectives were accomplished.

COMMUNITY OUTREACH:

A significant aspect of this grant is educating the community and increasing awareness regarding traffic safety. This will be accomplished through press releases and the use of social media. The San Rafael Police Department has 15,800 Twitter and 12,000 Facebook followers as well as 41,000 subscribers to updates on Nextdoor and over 2,100 subscribers to press release email notifications.

FISCAL IMPACT:

The grant funding will be received into the Grant Fund – Safety (Fund #281) and will be appropriated for operational expenses such as overtime costs, travel and training associated with the focused enforcement of traffic safety, up to the total proceeds of the grant of \$138,000.

OPTIONS:

1. Adopt the resolution approving acceptance and appropriation of the \$138,000 Office of Traffic Safety STEP grant and authorizing the City Manager to execute a grant agreement and any other documents related to the grant.
2. Do not adopt the resolution. (The OTS grants require the implementation of all the grant components for funding to be provided.)

RECOMMENDED ACTION:

Adopt the resolution approving the acceptance and appropriation of State of California Office of Traffic Safety grant funds in the amount of \$138,000 for the “Selective Traffic Enforcement Program” (“STEP”)

grant from October 1, 2022 through September 30, 2023, and authorizing the City Manager to execute a grant agreement and any other documents related to the grant.

ATTACHMENTS:

1. Resolution

RESOLUTION NO.

RESOLUTION APPROVING THE ACCEPTANCE AND APPROPRIATION OF STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY GRANT FUNDS IN THE AMOUNT OF \$138,000 FOR THE “SELECTIVE TRAFFIC ENFORCEMENT PROGRAM” (“STEP”) GRANT FROM OCTOBER 1, 2022 THROUGH SEPTEMBER 30, 2023, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT AND ANY OTHER DOCUMENTS RELATED TO THE GRANT

Whereas, the State of California, Office of Traffic Safety has approved a grant to the City of San Rafael in the amount of \$138,000 in grant funds for the period of October 1, 2022 through September 30, 2023; and

Whereas, this grant money may be spent to pay overtime costs, travel and equipment purchase associated with the Selective Traffic Enforcement Program (“STEP”) Grant Program to mitigate traffic safety program deficiencies and expand ongoing activity; and

Whereas, to improve traffic safety, the San Rafael Police Department will use the STEP Grant funds to conduct DUI saturation patrols, distracted driving enforcement, motorcycle safety enforcement, high collision intersection enforcement, speed enforcement patrols, and enforcement traffic stops; and

Whereas, the Police Department will use the STEP Grant funds for overtime personnel costs of Captains, Lieutenants, Sergeants, Corporals, Officers, Community Service Officers, Dispatchers and Cadets incurred in connection with the enforcement activities, including training and travel and expenses related to enforcement activities; and

NOW, THEREFORE BE IT RESOLVED, that the City Council approves the acceptance and appropriation of \$138,000 in California Office of Traffic Safety grant funds for the City’s “Selective Traffic Enforcement Program” from October 1, 2022 through September 30, 2023, with funds to be appropriated in the Safety Grant Fund 281; and authorizes the City Manager to execute a Grant Agreement and any documents related to the Grant in a form approved by the City Attorney.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council meeting held on September 19, 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: April Miller, Director of Public Works

City Manager Approval: 

TOPIC: "STREETARIES" OUTDOOR EATING AREAS ORDINANCE

SUBJECT: INTRODUCTION OF AN ORDINANCE OF THE CITY OF SAN RAFAEL ADDING CHAPTER 11.70 ("STREETARIES" OUTDOOR EATING AREAS) TO TITLE 11 (PUBLIC WORKS) OF THE SAN RAFAEL MUNICIPAL CODE; AMENDING SECTION 14.16.277 OF CHAPTER 14.16 (SITE USE AND REGULATIONS), SECTION 14.17.110 OF CHAPTER 14.17 (PERFORMANCE STANDARDS), SECTION 14.05.020 OF CHAPTER 14.05 (COMMERCIAL AND OFFICE DISTRICTS), SECTION 14.06.020 OF CHAPTER 14.06 (INDUSTRIAL DISTRICTS) AND SECTION 14.08.020 OF CHAPTER 14.08 (MARINE DISTRICT) OF TITLE 14 (ZONING) OF THE SAN RAFAEL MUNICIPAL CODE; AND AMENDING TABLE 2.3.070.A (USE TABLE) OF CHAPTER 9 (DOWNTOWN FORM-BASED CODE) OF THE DOWNTOWN SAN RAFAEL PRECISE PLAN RELATING TO OUTDOOR EATING AREAS IN THE PUBLIC RIGHT-OF-WAY

RECOMMENDED ACTION: Waive further reading and introduce the ordinance of the City of San Rafael adding Chapter 11.70 ("Streetaries" Outdoor Eating Areas) to Title 11 (Public Works) of the San Rafael Municipal Code; amending Section 14.16.277 of Chapter 14.16 (Site Use and Regulations), Section 14.17.110 of Chapter 14.17 (Performance Standards), Section 14.05.020 of Chapter 14.05 (Commercial and Office Districts), Section 14.06.020 of Chapter 14.06 (Industrial Districts) and Section 14.08.020 of Chapter 14.08 (Marine District) of Title 14 (Zoning) of the San Rafael Municipal Code; and amending Table 2.3.070.a (Use Table) of Chapter 9 (Downtown Form-Based Code) of the Downtown San Rafael Precise Plan relating to outdoor eating areas in the public right-of-way.

BACKGROUND: Outdoor dining on City sidewalks and in the public right of way was authorized by the City Council in April 2000 through adoption of [Ordinance 1751](#), codified at SRMC Section [14.16.277](#), *Use of City Sidewalks and Rights-of-Way for Outdoor Eating Areas*. This ordinance allows the Community Development Director to license outdoor dining on sidewalks and in other rights of way subject to certain conditions and subject to performance standards under [Section 14.17.110\(C\)](#), *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 parklets in the streets, which provided a process for businesses to use parking spaces for outdoor dining purposes. [On December 3,](#)

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

2018, the City Council authorized the on-street dining to continue under the same limitations. Prior to the COVID-19 pandemic, three (3) merchants received approval to operate outdoor dining parklets in parking spaces.

To help local businesses during the COVID-19 emergency, on June 1, 2020, the City Council adopted Resolution 14809 authorizing the City Manager, at their 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 and allow dining establishments to continue to operate when indoor dining was not allowed during the COVID-19 emergency. Twenty-nine (29) additional merchants utilized the streamlined program, thereby maintaining economic stability during challenging COVID-19 pandemic restrictions.

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 Outdoor Dining Program that sets clear and fair rules, parameters, and processes to ensure a positive impact on the City's economic vitality.

On June 21, 2022, staff presented the Draft Streetary Program Guidelines to the City Council, setting forth staff's recommendations for design and development standards, operational standards, fees, and other related requirements for new Streetary Encroachment Permits that would apply after current permits expire on November 30, 2022. The City Council concurred with the presented draft design guidelines. The City Council expressed interest in offering merchants an incentive to remove unused installations by absorbing the cost of removal if removed by December 1, 2022. In addition, and as an added incentive to promote and improve Streetaries, the City Council supported a proposal to waive the application fee through December 31, 2023 and discount the annual permit fee for the first year by 50% (between December 1, 2022 until December 31, 2023) and for the second year by 25% (between January 1, 2024 until December 31, 2024).

This report recommends that the Council consider public comment/testimony and introduce the Ordinance to establish the parameters and operational authorities for the program. If introduced, the Council may adopt the Ordinance at the regular meeting on October 3, 2022. Staff will also present a resolution for the City Council to adopt design and development standards regulating the form, design, safety and maintenance of streetaries (also known as Streetary Program Guidelines) and the fee amounts.

ANALYSIS: The goal of the proposed Ordinance is to maintain the economic vitalization gained by the existing streetaries while strengthening safety standards, creating consistent design aesthetic, and ensuring fairness in the way that the public right of way is being used.

The proposed Ordinance was carefully crafted through a collaborative team effort between Public Works, Community Development, Parking Services, Economic Development, Fire, Police, and the City Manager's and City Attorney's Offices. The proposed Ordinance authority would be congruent with other encroachment permits where the Director of Public Works is the established authority. Under the direction of the City Manager, the Public Works Department will administer the program and will keep track of any unanticipated issues and suggest any necessary revisions in the future.

There are 32 food service establishments with existing streetaries in San Rafael. Most of these streetaries were established under the emergency program with self-certification requirements. The Temporary Outdoor Dining Program was designed to be more flexible in nature to

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 3

accommodate everchanging dining regulations during the COVID-19 Pandemic. The adjustments needed to bring these existing streetaries in compliance with the new proposed design guidelines required time and careful handling for a still-recovering food service industry.

The initial survey of the 32 existing streetaries indicated a wide variance in the amount of work needed to bring streetaries in compliance with the new guidelines. Staff sent a letter to current operators of streetaries notifying them of the draft guidelines. The operators were asked to indicate their interest in continuing to operate their streetary under the proposed new program. The letter was sent on August 10, 2022 and operators were asked to respond by September 1, 2022. Staff have only heard from about a third of the streetaries by this date, so staff is continuing to work on other ways to contact the existing streetaries before the City Council meeting and will provide a summary of responses to date.

With the new ordinance in effect, staff will have the authority to accept and process applications from existing businesses intending to make modifications to existing structures and continue participating in the streetary program, as well as applications from businesses that wish to operate new streetaries. All existing streetaries, including those permitted before and during the COVID-19 emergency authorization, will be subject to the new ordinance and design standards.

Fees required under the ordinance are an application fee, annual encroachment lease fee, and a one-time refundable deposit, in amounts to be established by separate resolution of the Council. The initial fee amounts will be presented at a near future City Council meeting as a separate consideration. The fee amounts may be changed from time-to-time by subsequent resolutions of the Council.

For operators who would like to remove the streetaries and not participate in the new program, staff intends to offer support to remove the streetary before December 1, 2022. The City would remove the streetary and absorb the cost of removal. This program would be implemented by staff, within the City Manager’s existing programmatic authority, without further City Council action.

Summary of the Ordinance

Following is a summary of the ordinance.

- 1) Adds Chapter 11.70 “Streetaries” Outdoor Eating Areas, to the SRMC, including but not limited to the following provisions:

Permit required (§ 11.70.020)	Requires a streetary encroachment permit issued by the Director of Public Works Permit issued to applicant with a valid business license to operate adjacent food service establishment
Fees (§ 11.70.040)	Application fee, annual encroachment lease fee, and one-time refundable deposit Amounts to be determined by separate resolution of the Council
Where permitted/locations (§ 11.70.050)	Permits streetaries in parking spaces within right-of-way in all commercial districts

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 4

	<p>Does not permit streetaries on streets with peak hour parking restrictions or speed limits greater than 25 mph</p> <p>Does not permit streetaries in certain restricted parking spaces – e.g., ADA designated, colored curb zones, blocking utility access, obstructing bicycle facilities</p>
Location criteria (§ 11.70.060)	<p>Requires minimum parking availability – e.g., 70% of on-street parking based on a three-block average must remain available for vehicles</p> <p>Streetaries must be adjacent to storefront, setback from travel lane and sides, and not block utility access</p>
Design and development standards (§ 11.70.070)	<p>City Council may adopt design and development standards* regulating the form, design, safety and maintenance of streetaries</p> <p>Authorizes the Director to make minor modifications to the standards</p> <p>* Streetary Guidelines will include the design and development standards. Will be proposed for adoption at the October 3, 2022 meeting. These guidelines will be substantially in keeping with the draft guidelines presented to the City Council at the June 21, 2022 meeting.</p>
Criteria for issuance (§ 11.70.080)	<p>Director must find that all fees have been paid and the proposed use is i) in compliance with the ordinance; ii) will ensure protection of public health, safety and general welfare and prevent interference with users of the right-of-way and other permit holders; and ii) will comply with development standards</p> <p>The Director may grant exceptions or minor modifications to the standards where the Director determines that a strict application of standards cannot be met by a proposed streetary and the streetary, as proposed, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons or injurious to property and improvements in the neighborhood</p>
Operational standards (§ 11.70.100)	<p>Sets operational standards on live entertainment or amplified music, outdoor food preparation, alcohol service, noise and disruptive behavior, site maintenance, ADA compliance, hours of operation, insufficient usage</p>
Enforcement (§ 11.70.120)	<p>Violation of the ordinance is a misdemeanor and all other enforcement proceedings or remedies are available to the City</p> <p>Director may revoke permit for non-compliance or to protect public interest, health, safety and/or welfare of community</p>
Appeal (§ 11.70.130)	<p>Provides permittee right of appeal to City Manager upon Director’s action on permit application or revocation</p>

- 2) Makes conforming amendments to Title 14 (Zoning) of the SRMC.

At their September 13, 2022 meeting, the Planning Commission adopted a resolution recommending the City Council adopt the proposed ordinance making corresponding amendments to sections of Title 14 (Zoning), summarized below.

Provisions of Sections 14.16.277, 14.17.110, 14.05.020, 14.06.020, and 14.08.020 of Title 14 (Zoning) are amended to conform with the new Chapter 11.70 governing streetaries. All provisions in this title that previously governed outdoor eating areas in the streets or parking spaces have been deleted. References to the new Chapter 11.70 have been added, where appropriate. Through these changes, permitting authority of streetaries has been changed from the Director of Community Development to the Director of Public Works because of their locations in the right-of-way.

Note that permitting of outdoor eating areas within sidewalk locations have been retained in Title 14. At this time, staff is not recommending changing the ordinance permitting sidewalk eating areas.

- 3) Makes conforming amendment to Chapter 9 of the Downtown Precise Plan.

At their September 13, 2022 meeting, the Planning Commission adopted a resolution recommending the City Council adopt the proposed ordinance making a corresponding amendment to Table 2.3.070.A of the Downtown San Rafael Precise Plan to conform with the new Chapter 11.70 governing streetaries.

ENVIRONMENTAL DETERMINATION: The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15304 (Class 4), 15305 (Class 5) and 15183, as summarized below.

Class 4 categorical exemptions (Minor Alterations to Land) consist of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes, including “minor temporary uses of land having negligible or no permanent effects on the environment . . .” (CEQA Guideline § 15304(e).) The proposed ordinance will involve the temporary, non-permanent use of land; all uses authorized pursuant to this ordinance would involve temporary, non-permanent improvements in the public right-of-way including temporary structures, tables and seating.

Class 5 categorical exemptions (Minor Alterations in Land Use Limitations) covers projects that consist of minor alterations in land use limitation in areas with an average slope of less than 20%, which do not result in any changes in land use or density including but not limited to issuance of minor encroachment permits. (CEQA Guideline § 15305.) The proposed ordinance will result in the issuance of permits for use and encroachment into the public right-of-way.

Section 15183 provides that when a proposed project is consistent with a General Plan or community plan for which an Environmental Impact Report (EIR) was certified, subsequent environmental review may only be required to examine “project-specific significant effects, which are peculiar to the project or its site.” On July 19, 2021, the City Council approved a resolution certifying the EIR that was prepared to analyze the environmental impacts of the City’s General Plan 2040 and Downtown Precise Plan. The City Council adopted both Plans as well as a statement of overriding considerations on August 2, 2021. As the conversion of on-street parking for use as outdoor dining is part of a strategy identified in the Downtown Precise Plan for creating

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 6

civic spaces in infill conditions, this ordinance is consistent with the Downtown Precise Plan and associated EIR. The project is therefore, exempt from CEQA pursuant to section 15183 of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this ordinance or its implementation would have a significant effect on the environment.

The proposed ordinance is consistent with these exemptions, because the requested action will not result in a direct or reasonably foreseeable change in the environment and because there is no possibility that the activity in question may have a significant effect on the environment.

Additionally, at their September 13, 2022 meeting, the Planning Commission adopted a resolution finding that the proposed amendments to the SRMC and Downtown Precise Plan are consistent with the San Rafael General Plan 2040 Goal EV-1: A Healthy and Resilient Economy because the program would streamline the permitting process, strengthen public safety standards, create a consistent design aesthetic, and ensure equity in the use of the public right of way.

FISCAL IMPACT: Section 11.70.040 of the proposed ordinance provides for the following fees: i) permit application fee; ii) annual encroachment lease fee, and iii) a one-time, refundable deposit. These fees will be presented at a near future City Council meeting as a separate consideration.

For businesses who do not opt to participate in the new streetaries program and would like help from the City to remove their existing streetary, the cost to the City of removal of each streetary is estimated at \$1,500. We anticipate up to six streetaries to choose this option of early removal. A total estimated cost of \$9,000 would be absorbed by the Department of Public Works operating budget.

OPTIONS:

1. Consider public comment/testimony and introduce the ordinance.
2. Consider public comment/testimony and introduce the ordinance, with amendments.
3. Do not introduce the ordinance and provide alternative direction to staff.

RECOMMENDED ACTION:

Waive further reading and introduce the ordinance of the City of San Rafael adding Chapter 11.70 ("Streetaries" Outdoor Eating Areas) to Title 11 (Public Works) of the San Rafael Municipal Code; amending Section 14.16.277 of Chapter 14.16 (Site Use and Regulations), Section 14.17.110 of Chapter 14.17 (Performance Standards), Section 14.05.020 of Chapter 14.05 (Commercial and Office Districts), Section 14.06.020 of Chapter 14.06 (Industrial Districts) and Section 14.08.020 of Chapter 14.08 (Marine District) of Title 14 (Zoning) of the San Rafael Municipal Code; and amending Table 2.3.070.a (Use Table) of Chapter 9 (Downtown Form-Based Code) of the Downtown San Rafael Precise Plan relating to outdoor eating areas in the public right-of-way.

ATTACHMENTS:

1. [DRAFT Ordinance](#)

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADDING CHAPTER 11.70 (“STREETARIES” OUTDOOR EATING AREAS) TO TITLE 11 (PUBLIC WORKS) OF THE SAN RAFAEL MUNICIPAL CODE; AMENDING SECTION 14.16.277 OF CHAPTER 14.16 (SITE USE AND REGULATIONS), SECTION 14.17.110 OF CHAPTER 14.17 (PERFORMANCE STANDARDS), SECTION 14.05.020 OF CHAPTER 14.05 (COMMERCIAL AND OFFICE DISTRICTS), SECTION 14.06.020 OF CHAPTER 14.06 (INDUSTRIAL DISTRICTS) AND SECTION 14.08.020 OF CHAPTER 14.08 (MARINE DISTRICT) OF TITLE 14 (ZONING) OF THE SAN RAFAEL MUNICIPAL CODE; AND AMENDING TABLE 2.3.070.A (USE TABLE) OF CHAPTER 9 (DOWNTOWN FORM-BASED CODE) OF THE DOWNTOWN SAN RAFAEL PRECISE PLAN RELATING TO OUTDOOR EATING AREAS IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, the City Council has determined that outdoor eating areas within certain of the City’s rights-of-way provide economic vitality to the City and businesses, create community gathering spaces, contribute to the enjoyment of public spaces, and increase opportunities for more enjoyable pedestrian travel in the City; and

WHEREAS, the City Council desires to permit outdoor eating areas within parking spaces of the public right-of-way – known as “Streetaries” – through Streetary Encroachment Permits; and

WHEREAS, outdoor dining in the public right-of-way was authorized by the City Council in April 2000, through adoption of [Ordinance 1751](#), codified at San Rafael Municipal Code (“SRMC”) Section [14.16.277](#), *Use of City Sidewalks and Rights-of-Way for Outdoor Eating Areas*, by authorizing the Community Development Director to license outdoor dining in “sidewalks and other rights-of-way” under certain conditions and subject to performance standards under [Section 14.17.110\(C\)](#), *Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments*; and

WHEREAS, on August 17, 2015, the City Council adopted [Resolution 13995](#), establishing a 3-year pilot program to expand the outdoor dining program to include parklets in the streets, which provided a process for businesses to use parking spaces for outdoor dining purposes; and

WHEREAS, on December 3, 2018, the City Council authorized the on-street dining program to continue under the same limitations and three (3) merchants participated in the pilot program; and

WHEREAS, on June 1, 2020, to help local businesses during the Covid-19 emergency, the City Council adopted [Resolution 14809](#) authorizing the City Manager, at their 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 and allow dining establishments to continue to operate when indoor dining was not allowed during the Covid-19 emergency; and

WHEREAS, twenty-nine (29) additional merchants participated in the streamlined program, thereby maintaining economic stability during challenging Covid-19 pandemic restrictions; and

WHEREAS, Temporary Outdoor Dining Program permits approved under the streamlined process are valid through November 30, 2022; and

WHEREAS, the City Council desires to transition pre-existing Streetaries that were established prior to and during the Covid-19 pandemic into new Streetary Encroachment Permits when current permits expire on November 30, 2022; and

WHEREAS, [on June 21, 2022](#), staff presented Draft Streetary Guidelines to the City Council with staff's recommendations for design and development standards, operational standards, fees, and other related requirements for new Streetary Encroachment Permits that would apply after current permits expire on November 30, 2022; and

WHEREAS, the City Council has determined that the Director of Public Works should be the City's designated representative to issue Streetary Encroachment Permits because of their locations within the City's streets and parking spaces; and

WHEREAS, the City Council aims to balance the desire for outdoor dining in the public right-of-way with adequate public parking and pedestrian and bicycle access; and

WHEREAS, pursuant to Vehicle Code section 22507(a), cities may, by ordinance or resolution, restrict or otherwise remove parking from city streets during all or certain hours of the day; and

WHEREAS, the proposed Ordinance to add Chapter 11.70 ("Streetaries" Outdoor Eating Areas) to Title 11 (Public Works) and amend corresponding sections of Title 14 (Zoning) of the SRMC and Chapter 9 of the Downtown Precise Plan relating to outdoor eating areas in the public right-of-way through Streetary Encroachment Permits qualify for the exemptions set forth in CEQA Guidelines sections 15304 and 15305 and statutory exemption section 15183; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 13, 2022, at which time it reviewed the proposed amendments to Title 14 (Zoning) of the SRMC and Chapter 9 of the Downtown Precise Plan, considered all public comments on the revisions and related CEQA exemptions, and recommended the proposed ordinance; and

WHEREAS, the City Council held a duly noticed public hearing on September 19, 2022, considered all public comments on the revisions and related CEQA exemptions,

and determined that the amendments are consistent with the General Plan and that the revisions would be internally consistent with all other provisions of the SRMC.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Division 1. The above findings are adopted and incorporated herein.

Division 2. **Addition of Chapter 11.70 to the San Rafael Municipal Code.**

Chapter 11.70 – “Streetaries” Outdoor Eating Areas is hereby adopted and made a part of Title 11 (“Public Works”) of the San Rafael Municipal Code as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Division 3. **Amendments of Section 14.16.277 of Chapter 14.16 (Site Use and Regulations), Section 14.17.110 of Chapter 14.17 (Performance Standards), Section 14.05.020 of Chapter 14.05 (Commercial and Office Districts), Section 14.06.020 of Chapter 14.06 (Industrial Districts) and Section 14.08.020 of Chapter 14.08 (Marine District) of Title 14 (Zoning) of the City of San Rafael Municipal Code.**

Section 1. **Amendment of Section 14.16.277 of the San Rafael Municipal Code.**

Section 14.16.277 (“Use of city sidewalks and rights-of-way for outdoor eating areas”) of Chapter 14.16 (“Site and Use Regulations”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline.

14.16.277 Use of city sidewalks ~~and rights-of-way~~ for outdoor eating areas.

A. Applicability. This section applies to the use of city sidewalks located within the public right-of-way for outdoor eating areas. Any outdoor eating area located within or using parking spaces within the public right-of-way shall not be subject to the provisions of this section, but shall be regulated as provided in Chapter 11.70 of Title 11.

~~A.B.~~ Notwithstanding any other provisions of this title, the use of city sidewalks ~~or other city rights-of-way~~ for outdoor eating areas is prohibited without a license agreement between the adjacent food service establishment and the city, which license agreement shall be in lieu of any environmental design review permit, use permit, administrative use permit, encroachment permit or other permit required for use of the city sidewalk ~~or right-of-way~~ for such purpose.

~~B.C.~~ Such license agreements shall be in a form approved by the city attorney, and shall include the applicable standards provided in Section 14.17.110(C), indemnification of the city, and liability insurance naming the city as an additional insured in an

amount not less than one million dollars (\$1,000,000.00) and in a form as approved by the city's risk manager.

~~C.D.~~ Such license agreement also shall be subject to such regulations hereafter deemed necessary by the community development director to protect the public health, safety, and welfare, and as approved by resolution of the city council.

~~D.E.~~ Such license agreements may be approved by the community development director and may be revoked at the pleasure of the city council.

~~E.F.~~ The placement of outdoor seating area barriers shall allow a minimum six-foot (6') wide clear pathway for sidewalks located within the public rights-of-way.

~~F.G.~~ In lieu of the aforementioned license agreement, the city council may enter into a lease agreement between the adjacent food service establishment at a rate and term to be determined by the city council, and as approved by resolution of the city council.

(Ord. 1751 § 6, 2000).

Section 2. Amendment of Section 14.17.110 of the San Rafael Municipal Code.

Subsection B (“Applicability”) of Section 14.17.110 (“Outdoor eating areas proposed in conjunction with food service establishments”) of Chapter 14.17 (“Performance Standards”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strikethrough~~, and additions are in underline.

14.17.110 Outdoor eating areas proposed in conjunction with food service establishments.

B. Applicability.

1. This section applies to outdoor eating areas proposed in conjunction with food service establishments, with the exception of outdoor eating areas within parking spaces within the public right-of-way. Any outdoor eating area located within or using parking spaces within the public right-of-way shall not be subject to the provisions of this section, but shall be regulated as provided in Chapter 11.70 of Title 11.

2. Performance standards for outdoor eating areas proposed in conjunction with restaurants or other food service establishments shall apply in any zoning district where food service establishments are permitted uses (as of right or by conditional use permit). Compliance with performance standards for outdoor eating areas shall be reviewed through an administrative use permit and administrative environmental and design review permit process for any existing food service establishment. In cases where the restaurant or food service establishment is being proposed as a new use and is subject to a conditional use

permit in the zoning district is which it is located, the performance standards shall be incorporated into the required use permit. Notwithstanding the foregoing, any outdoor eating area located on city sidewalks ~~or rights-of-way~~ shall not be subject to the administrative use permit or use permit process, but shall be regulated as provided in Section 14.16.277.

(Ord. 1751 §§ 4, 5, 2000; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 61, 6-21-2010)

Section 3. Amendment of Section 14.05.020 of the San Rafael Municipal Code.

Table 14.05.020 of Section 14.05.020 (“Land Use Regulations (GC, NC, O, C/O, R/O, FBWC)”) of Chapter 14.05 (“Commercial and Office Districts”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~striketrough~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.05.020 shall be modified by this amendment.

Table 14.05.020

Type of Land Use	GC	NC	O	C/O	R/O	FBWC*	Additional Use Regulations
Commercial Uses							
Outdoor eating areas	A*	A*	A*	A*	A*	A*	For outdoor eating areas on private property see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Section 4. Amendment of Section 14.06.020 of the San Rafael Municipal Code.

Table 14.06.020 of Section 14.06.020 (“Land Use Regulations (I, LI/O, CCI/O, LMU)”) of Chapter 14.06 (“Industrial Districts (I, LI/O, CCI/O, LMU)”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is

hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.06.020 shall be modified by this amendment.

Table 14.06.020

Types of Land Use	I	LI /O	CCI /O	LM U	Additional Use Regulations
Commercial Uses					
Outdoor eating areas	A	A	A	A	For outdoor eating areas on private property, see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks- or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Section 5. Amendment of Section 14.08.020 of the San Rafael Municipal Code.

Table 14.08.020 of Section 14.08.020 (“Land Use Regulations (M)”) of Chapter 14.08 (“Marine District”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.08.020 shall be modified by this amendment.

Table 14.08.020

Type of Land Use	M	Additional Use Regulations
Commercial		
Outdoor eating areas	A	For outdoor eating areas on private property, see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks- or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Division 4. Amendment of Table 2.3.070.A of the Downtown San Rafael Precise Plan.

Footnote 17 of Table 2.3.070.A (“Use Table”) of Article 2 (“Downtown Form-Based Zones”) of Chapter 9 (“Downtown Form-Based Code”) of the August 2021, Downtown San Rafael Precise Plan is hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline. Unless indicated below, no other cells, rows or footnotes within Table 2.3.070.A shall be modified by this amendment.

¹⁷ For outdoor eating areas on private property, see SRMC Section 14.17.110 (Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments) standards. For outdoor seating areas located on city sidewalks ~~or rights-of-way~~, see SRMC Section 14.16.277 (Use Of City Sidewalks ~~and Rights-of-way~~ for Outdoor Eating Areas) standards. For outdoor eating areas on parking spaces within the public right-of-way, see SRMC Chapter 11.70 (“Streetaries” Outdoor Eating Areas).

Division 5. Compliance with California Environmental Quality Act (CEQA).

The City Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15304 (Class 4), 15305 (Class 5) and 15183.

Class 4 categorical exemptions (Minor Alterations to Land) consist of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes, including “minor temporary uses of land having negligible or no permanent effects on the environment . . .” (CEQA Guideline § 15304(e).) This Ordinance will involve the temporary, non-permanent use of land; all uses authorized pursuant to this ordinance would involve temporary, non-permanent improvements in the public right-of-way including temporary structures, tables and seating.

Class 5 categorical exemptions (Minor Alterations in Land Use Limitations) covers projects that consist of minor alterations in land use limitation in areas with an average slope of less than 20%, which do not result in any changes in land use or density including but not limited to issuance of minor encroachment permits. (CEQA Guideline § 15305.) This Ordinance will result in the issuance of permits for use and encroachment into the public right-of-way.

Section 15183 provides that when a proposed project is consistent with a General Plan or community plan for which an Environmental Impact Report (EIR) was certified, subsequent environmental review may only be required to examine “project-specific significant effects, which are peculiar to the project or its site.” On July 19, 2021, the City Council approved a resolution certifying the EIR that was prepared to analyze the environmental impacts of the City’s General Plan 2040 and Downtown Precise Plan. The City Council adopted both Plans as well as a statement of overriding considerations on August 2, 2021. As the conversion of on-street parking for use as outdoor dining is part

of a strategy identified in the Downtown Precise Plan for creating civic spaces in infill conditions, this Ordinance is consistent with the Downtown Precise Plan and associated EIR. The project is therefore, exempt from CEQA pursuant to section 15183 of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance or its implementation would have a significant effect on the environment.

The proposed Ordinance is consistent with these exemptions, because the requested action will not result in a direct or reasonably foreseeable change in the environment and because there is no possibility that the activity in question may have a significant effect on the environment.

Division 6. Severability.

The City Council hereby declares every section, paragraph, sentence, clause, and phrase of this Ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this Ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Division 7. Publication; Effective Date.

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for or against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 19th day of September 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the ____ day of _____ 2022 by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

KATE COLIN, Mayor

Attest:

LINDSAY LARA, City Clerk

Exhibit A

Chapter 11.70 – “STREETARIES” OUTDOOR EATING AREAS

11.70.010 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning set forth below. Unless in direct conflict with terms defined herein, other words and phrases shall be interpreted as defined in the Streets and Highways Code:

- A. “Outdoor eating area” shall have the same meaning as set forth in Section 14.03.030 of Title 14.
- B. “Parking spaces within the public right-of-way” shall mean the designated on-street or off-street area where parking of vehicles does not violate any posted parking restriction and the use of the space does not interfere with the safety nor the passage of persons and vehicles.
- C. “Permittee” shall mean the permit holder of a valid streetary encroachment permit issued by the city.
- D. “Streetary” or “streetaries” shall mean an outdoor eating area that operates within and uses parking spaces within the public right-of-way directly adjacent to the food service establishment street frontage. Outdoor eating areas operating within or using sidewalks within the public right-of-way are not covered under this chapter and are subject to the applicable standards under Section 14.16.277 of Title 14.

11.70.020 - Permit required.

Any person desiring to erect, construct, place or maintain an encroachment upon any existing parking spaces within the public right-of-way for a streetary must first obtain an annual streetary encroachment permit pursuant to this chapter. Each applicant for an annual streetary encroachment permit shall comply with the requirements of this chapter, any other applicable laws, and any regulations and policies adopted pursuant to this chapter.

Permits shall only be issued to applicants with a valid business license issued by the city to operate a food service establishment directly adjacent to the parking spaces within the right-of-way for which a streetary encroachment permit is sought.

All persons operating and/or maintaining a streetary as of the effective date of this ordinance shall be required to obtain a streetary encroachment permit and pay applicable fees no later than December 1, 2022. Failure to obtain a streetary encroachment permit within this time period shall constitute a violation of this chapter and may subject the current streetary operator to closure and/or enforcement pursuant to this chapter.

11.70.030 - Permit application.

The director of public works (the "director") shall establish an application form for an annual streetary encroachment permit, including any application materials deemed necessary to enable complete review of the application. The application shall be accompanied by a permit application fee required under Section 11.70.040.

The director shall transmit a copy of each application for an annual streetary encroachment permit to the director of community development (the "planning director"). The planning director shall review the application for compliance with all applicable design and development standards.

11.70.040 - Fees.

Each permit application shall be accompanied by a permit application fee. Prior to permit issuance, the permittee shall pay an annual encroachment lease fee and a one-time, refundable deposit. Fees shall be in amounts established by separate resolution of the City Council.

11.70.050 - Where permitted.

- A. Streetaries are permitted in existing parking spaces within the right-of-way in all commercial districts.
- B. Streetaries are only permitted in the parking spaces within the right-of-way directly adjacent to the food service establishment street frontage.
- C. Notwithstanding subsection A, above, streetaries shall not be permitted along streets with (1) peak hour parking restrictions or (2) speeds limits greater than 25 miles per hour.
- D. Notwithstanding subsection A, above, streetaries shall not be permitted in parking spaces that (1) are ADA designated, (2) are adjacent to curbs designated for no parking (red curb), passenger loading zones (white curb), commercial loading zones (yellow curb), limited parking zones (green) and/or any other colored curb zones with restrictions, (3) would block or obstruct any fire hydrant, fire department sprinkler or standpipe hose, or other public safety infrastructure, (4) would obstruct utility access panels, manhole covers, storm drains, street valves, or any other type of utility assets, or (5) would obstruct any bicycle facility.

11.70.060 - Location criteria.

- A. Maximum parking stalls. A maximum of two parallel parking spaces shall be used for each streetary.
- B. Parking sufficiency. Seventy percent (70%) of on-street parking on any three-block average (the streetary location's block and one block in either direction) must remain available for vehicles at any given time. The director may make an exception if the entrance to a public parking garage or lot is within 300 feet of the streetary location.
- C. Adjacency to storefront. Streetaries may only be permitted in parking spaces within the right-of-way that are directly in front of the permittee's food service

establishment business. If a food service establishment fronts more than one but less than two parking spaces and fronts more than fifty percent (50%) of the second parking space, the permittee is eligible to apply for two parking spaces for use as a streetary.

- D. Travel lane setback. Streetaries shall have an eighteen inch (18") 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 or their designee.
- E. Side setback. Streetaries shall have a two-foot minimum side setback to each wheel stop located at each end of the parking space.
- F. Utilities. A minimum clearance of four feet (4') 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 shall meet the minimum vertical distance requirements as established by the California Public Utility Commission. Streetaries that block the outlet of a sidewalk underdrain shall ensure the outlet is functional and flowing. Permittees shall take a thorough inventory of utility access covers in the proposed streetary area by checking under parked cars. Permittees shall 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 permittee temporarily remove all or a portion of the constructed streetary. Permittees shall be responsible for the cost of removing, re-installing and restoring any damage to the streetary.

11.70.070 - Design and development standards.

The city council shall, by separate resolution, adopt design and development standards regulating the form, design, safety and maintenance of streetaries. The director may, from time to time, make minor modifications to the design and development standards.

11.70.080 - Criteria for issuance.

- A. The director, in acting upon any application for a streetary encroachment permit, shall either approve, approve with conditions or deny the issuance of a permit based on the following principles and standards:
 - 1. That the applicant has paid all fees required under Section 11.70.040.
 - 2. That the proposed use of the parking spaces within the public right-of-way is in compliance with all applicable provisions of this chapter;
 - 3. That the proposed use of the parking spaces in the public right-of way is so arranged as to ensure the protection of public health, safety and general welfare, and prevent interference with users of the sidewalks, streets and holders of other permits; and

4. That the proposed use will properly comply with the provisions and development standards prescribed in this chapter, or as prescribed by the director and/or planning director.
- B. The streetary encroachment permit may be subject to additional conditions where the city has documented any violation of this chapter, other applicable laws and regulations, or the streetary 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.
 - C. Deviations from adopted standards. Where the director determines that (1) a strict application of standards set forth in this chapter cannot be met by a proposed streetary, and (2) the streetary, as proposed, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood, the director may grant exceptions or minor modifications to the standards set forth in this chapter.

11.70.090 - Limited to food service establishments.

All permits issued pursuant to this chapter shall be limited to streetaries established in conjunction with and abutting food service establishments.

11.70.100- Operational standards.

- A. No live entertainment or amplified music. No live entertainment or amplified music shall be permitted in streetaries established pursuant to this chapter without first obtaining all required permits including but not limited to those issued pursuant to Section 8.13.060 of Title 8.
- B. No outdoor food preparation, flames, heating. Outdoor food preparation, food heating mechanisms, cooking and open flames, hotpots, candles, open flames, and barbecues shall not be permitted in streetaries.
- C. Alcohol service. Alcohol service shall be permitted subject to the acquisition of all required local and State permits and licenses.
- D. Noise and disruptive behavior. Permittees shall be responsible for ensuring their patrons minimize noise and disruptive behavior while using their streetary space.
- E. 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.
- F. ADA compliance. Streetary seating areas must, at all times, 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 ADA access shall be required.

- G. Hours of operation. The streetary shall adhere to the same approved hours of operation as the associated food service establishment business, with the following limitations:
1. For streetaries that are within 150-foot horizontal or vertical distance from residences: Streetaries shall not commence operations prior to 7 a.m. on Saturdays, Sundays, and holidays; Streetaries shall not commence operations prior to 6 a.m. Monday through Friday; Streetaries shall not operate after 10 p.m. on Fridays and Saturdays; Streetaries shall not operate after 9 p.m. Sunday through Thursday and holidays. For purposes of this section, "holidays" shall have the same meaning as set forth in chapter 8.13 (Noise) of title 8.
- H. 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 during the operational hours of the food service establishment associated with the streetary, except in inclement weather and subject to the hours of operation limitations under subsection G. The city has the right to notify any streetary permittee in writing of insufficient usage and invoke the enforcement procedures set forth in this chapter.

11.70.110 - Indemnification and insurance.

As a condition of the issuance of an annual streetary encroachment permit, the permittee shall defend, indemnify and hold harmless the City of San Rafael and shall present, along with each application or renewal application for an annual permit, evidence of liability insurance in a form acceptable to the director.

11.70.120 – Enforcement.

- A. Any person who violates this chapter shall be guilty of a misdemeanor and may be subject to any and all enforcement proceedings or remedies, including the imposition of penalties as authorized by law. The provisions of this chapter are cumulative to any other remedies authorized by law. Any streetary may be subject to inspection by the city on an annual basis or as needed to ensure compliance with this chapter and permits issued pursuant to this chapter.
- B. The city retains the right to revoke a streetary encroachment permit at any time where a violation of this chapter has occurred and/or revocation is necessary to protect the public interest, health, safety and/or welfare of the community. If the director believes that a permittee is in violation of this chapter, the director may issue a notice of violation to the permittee. The notice of violation shall be served on the permittee, either in person or by first class mail. The notice shall indicate that the permit is subject to termination unless, within 30 days of service of the notice of violation, the violation is corrected or a hearing pursuant to this chapter is requested in writing. If the director or his designee determines that a permittee will not be able to continue to meet the requirements of this chapter because of a proposed public highway right-of-way improvement, the director or their

designee shall notify the permittee, either in person or by first class mail, that the permit will be terminated within 30 days of service of the notice of termination.

11.70.130 – Appeals.

Any person aggrieved by the director's action on a streetary encroachment permit application or revocation may appeal by submitting a written appeal to the city manager, along with any applicable appeal fee as provided in the city's master fee schedule, within fifteen (15) days of the date on which the permit was issued or on which the application was denied or on which the permit was revoked. The city manager, or his designee, shall hold a hearing on the appeal within thirty (30) days of receipt of the appeal, and shall give the applicant and the appellant at least ten (10) days' written notice of the time of the hearing. The decision by the city manager or his designee on the appeal shall be final.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADDING CHAPTER 11.70 (“STREETARIES” OUTDOOR EATING AREAS) TO TITLE 11 (PUBLIC WORKS) OF THE SAN RAFAEL MUNICIPAL CODE; AMENDING SECTION 14.16.277 OF CHAPTER 14.16 (SITE USE AND REGULATIONS), SECTION 14.17.110 OF CHAPTER 14.17 (PERFORMANCE STANDARDS), SECTION 14.05.020 OF CHAPTER 14.05 (COMMERCIAL AND OFFICE DISTRICTS), SECTION 14.06.020 OF CHAPTER 14.06 (INDUSTRIAL DISTRICTS) AND SECTION 14.08.020 OF CHAPTER 14.08 (MARINE DISTRICT) OF TITLE 14 (ZONING) OF THE SAN RAFAEL MUNICIPAL CODE; AND AMENDING TABLE 2.3.070.A (USE TABLE) OF CHAPTER 9 (DOWNTOWN FORM-BASED CODE) OF THE DOWNTOWN SAN RAFAEL PRECISE PLAN RELATING TO OUTDOOR EATING AREAS IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, the City Council has determined that outdoor eating areas within certain of the City’s rights-of-way provide economic vitality to the City and businesses, create community gathering spaces, contribute to the enjoyment of public spaces, and increase opportunities for more enjoyable pedestrian travel in the City; and

WHEREAS, the City Council desires to permit outdoor eating areas within parking spaces of the public right-of-way – known as “Streetaries” – through Streetary Encroachment Permits; and

WHEREAS, outdoor dining in the public right-of-way was authorized by the City Council in April 2000, through adoption of [Ordinance 1751](#), codified at San Rafael Municipal Code (“SRMC”) Section [14.16.277](#), *Use of City Sidewalks and Rights-of-Way for Outdoor Eating Areas*, by authorizing the Community Development Director to license outdoor dining in “sidewalks and other rights-of-way” under certain conditions and subject to performance standards under [Section 14.17.110\(C\)](#), *Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments*; and

WHEREAS, on August 17, 2015, the City Council adopted [Resolution 13995](#), establishing a 3-year pilot program to expand the outdoor dining program to include parklets in the streets, which provided a process for businesses to use parking spaces for outdoor dining purposes; and

WHEREAS, on December 3, 2018, the City Council authorized the on-street dining program to continue under the same limitations and three (3) merchants participated in the pilot program; and

WHEREAS, on June 1, 2020, to help local businesses during the Covid-19 emergency, the City Council adopted [Resolution 14809](#) authorizing the City Manager, at their 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 and allow dining establishments to continue to operate when indoor dining was not allowed during the Covid-19 emergency; and

WHEREAS, twenty-nine (29) additional merchants participated in the streamlined program, thereby maintaining economic stability during challenging Covid-19 pandemic restrictions; and

WHEREAS, Temporary Outdoor Dining Program permits approved under the streamlined process are valid through November 30, 2022; and

WHEREAS, the City Council desires to transition pre-existing Streetaries that were established prior to and during the Covid-19 pandemic into new Streetary Encroachment Permits when current permits expire on November 30, 2022; and

WHEREAS, [on June 21, 2022](#), staff presented Draft Streetary Guidelines to the City Council with staff's recommendations for design and development standards, operational standards, fees, and other related requirements for new Streetary Encroachment Permits that would apply after current permits expire on November 30, 2022; and

WHEREAS, the City Council has determined that the Director of Public Works should be the City's designated representative to issue Streetary Encroachment Permits because of their locations within the City's streets and parking spaces; and

WHEREAS, the City Council aims to balance the desire for outdoor dining in the public right-of-way with adequate public parking and pedestrian and bicycle access; and

WHEREAS, pursuant to Vehicle Code section 22507(a), cities may, by ordinance or resolution, restrict or otherwise remove parking from city streets during all or certain hours of the day; and

WHEREAS, the proposed Ordinance to add Chapter 11.70 ("Streetaries" Outdoor Eating Areas) to Title 11 (Public Works) and amend corresponding sections of Title 14 (Zoning) of the SRMC and Chapter 9 of the Downtown Precise Plan relating to outdoor eating areas in the public right-of-way through Streetary Encroachment Permits qualify for the exemptions set forth in CEQA Guidelines sections 15304 and 15305 and statutory exemption section 15183; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 13, 2022, at which time it reviewed the proposed amendments to Title 14 (Zoning) of the SRMC and Chapter 9 of the Downtown Precise Plan, considered all public comments on the revisions and related CEQA exemptions, and recommended the proposed ordinance; and

WHEREAS, the City Council held a duly noticed public hearing on September 19, 2022, considered all public comments on the revisions and related CEQA exemptions,

and determined that the amendments are consistent with the General Plan and that the revisions would be internally consistent with all other provisions of the SRMC.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Division 1. The above findings are adopted and incorporated herein.

Division 2. **Addition of Chapter 11.70 to the San Rafael Municipal Code.**

Chapter 11.70 – “Streetaries” Outdoor Eating Areas is hereby adopted and made a part of Title 11 (“Public Works”) of the San Rafael Municipal Code as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Division 3. **Amendments of Section 14.16.277 of Chapter 14.16 (Site Use and Regulations), Section 14.17.110 of Chapter 14.17 (Performance Standards), Section 14.05.020 of Chapter 14.05 (Commercial and Office Districts), Section 14.06.020 of Chapter 14.06 (Industrial Districts) and Section 14.08.020 of Chapter 14.08 (Marine District) of Title 14 (Zoning) of the City of San Rafael Municipal Code.**

Section 1. **Amendment of Section 14.16.277 of the San Rafael Municipal Code.**

Section 14.16.277 (“Use of city sidewalks and rights-of-way for outdoor eating areas”) of Chapter 14.16 (“Site and Use Regulations”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline.

14.16.277 Use of city sidewalks ~~and rights-of-way~~ for outdoor eating areas.

A. Applicability. This section applies to the use of city sidewalks located within the public right-of-way for outdoor eating areas. Any outdoor eating area located within or using parking spaces within the public right-of-way shall not be subject to the provisions of this section, but shall be regulated as provided in Chapter 11.70 of Title 11.

~~A.B.~~ Notwithstanding any other provisions of this title, the use of city sidewalks ~~or other city rights-of-way~~ for outdoor eating areas is prohibited without a license agreement between the adjacent food service establishment and the city, which license agreement shall be in lieu of any environmental design review permit, use permit, administrative use permit, encroachment permit or other permit required for use of the city sidewalk ~~or right-of-way~~ for such purpose.

~~B.C.~~ Such license agreements shall be in a form approved by the city attorney, and shall include the applicable standards provided in Section 14.17.110(C), indemnification of the city, and liability insurance naming the city as an additional insured in an

amount not less than one million dollars (\$1,000,000.00) and in a form as approved by the city's risk manager.

~~C.D.~~ Such license agreement also shall be subject to such regulations hereafter deemed necessary by the community development director to protect the public health, safety, and welfare, and as approved by resolution of the city council.

~~D.E.~~ Such license agreements may be approved by the community development director and may be revoked at the pleasure of the city council.

~~E.F.~~ The placement of outdoor seating area barriers shall allow a minimum six-foot (6') wide clear pathway for sidewalks located within the public rights-of-way.

~~F.G.~~ In lieu of the aforementioned license agreement, the city council may enter into a lease agreement between the adjacent food service establishment at a rate and term to be determined by the city council, and as approved by resolution of the city council.

(Ord. 1751 § 6, 2000).

Section 2. Amendment of Section 14.17.110 of the San Rafael Municipal Code.

Subsection B (“Applicability”) of Section 14.17.110 (“Outdoor eating areas proposed in conjunction with food service establishments”) of Chapter 14.17 (“Performance Standards”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strikethrough~~, and additions are in underline.

14.17.110 Outdoor eating areas proposed in conjunction with food service establishments.

B. Applicability.

1. This section applies to outdoor eating areas proposed in conjunction with food service establishments, with the exception of outdoor eating areas within parking spaces within the public right-of-way. Any outdoor eating area located within or using parking spaces within the public right-of-way shall not be subject to the provisions of this section, but shall be regulated as provided in Chapter 11.70 of Title 11.

2. Performance standards for outdoor eating areas proposed in conjunction with restaurants or other food service establishments shall apply in any zoning district where food service establishments are permitted uses (as of right or by conditional use permit). Compliance with performance standards for outdoor eating areas shall be reviewed through an administrative use permit and administrative environmental and design review permit process for any existing food service establishment. In cases where the restaurant or food service establishment is being proposed as a new use and is subject to a conditional use

permit in the zoning district is which it is located, the performance standards shall be incorporated into the required use permit. Notwithstanding the foregoing, any outdoor eating area located on city sidewalks ~~or rights-of-way~~ shall not be subject to the administrative use permit or use permit process, but shall be regulated as provided in Section 14.16.277.

(Ord. 1751 §§ 4, 5, 2000; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 61, 6-21-2010)

Section 3. Amendment of Section 14.05.020 of the San Rafael Municipal Code.

Table 14.05.020 of Section 14.05.020 (“Land Use Regulations (GC, NC, O, C/O, R/O, FBWC)”) of Chapter 14.05 (“Commercial and Office Districts”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~striketrough~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.05.020 shall be modified by this amendment.

Table 14.05.020

Type of Land Use	GC	NC	O	C/O	R/O	FBWC*	Additional Use Regulations
Commercial Uses							
Outdoor eating areas	A*	A*	A*	A*	A*	A*	For outdoor eating areas on private property see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Section 4. Amendment of Section 14.06.020 of the San Rafael Municipal Code.

Table 14.06.020 of Section 14.06.020 (“Land Use Regulations (I, LI/O, CCI/O, LMU)”) of Chapter 14.06 (“Industrial Districts (I, LI/O, CCI/O, LMU)”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is

hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.06.020 shall be modified by this amendment.

Table 14.06.020

Types of Land Use	I	LI /O	CCI /O	LM U	Additional Use Regulations
Commercial Uses					
Outdoor eating areas	A	A	A	A	For outdoor eating areas on private property, see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks- or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Section 5. Amendment of Section 14.08.020 of the San Rafael Municipal Code.

Table 14.08.020 of Section 14.08.020 (“Land Use Regulations (M)”) of Chapter 14.08 (“Marine District”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.08.020 shall be modified by this amendment.

Table 14.08.020

Type of Land Use	M	Additional Use Regulations
Commercial		
Outdoor eating areas	A	For outdoor eating areas on private property, see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks- or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Division 4. Amendment of Table 2.3.070.A of the Downtown San Rafael Precise Plan.

Footnote 17 of Table 2.3.070.A (“Use Table”) of Article 2 (“Downtown Form-Based Zones”) of Chapter 9 (“Downtown Form-Based Code”) of the August 2021, Downtown San Rafael Precise Plan is hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline. Unless indicated below, no other cells, rows or footnotes within Table 2.3.070.A shall be modified by this amendment.

¹⁷ For outdoor eating areas on private property, see SRMC Section 14.17.110 (Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments) standards. For outdoor seating areas located on city sidewalks ~~or rights-of-way~~, see SRMC Section 14.16.277 (Use Of City Sidewalks ~~and Rights-of-way~~ for Outdoor Eating Areas) standards. For outdoor eating areas on parking spaces within the public right-of-way, see SRMC Chapter 11.70 (“Streetaries” Outdoor Eating Areas).

Division 5. Compliance with California Environmental Quality Act (CEQA).

The City Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15304 (Class 4), 15305 (Class 5) and 15183.

Class 4 categorical exemptions (Minor Alterations to Land) consist of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes, including “minor temporary uses of land having negligible or no permanent effects on the environment . . .” (CEQA Guideline § 15304(e).) This Ordinance will involve the temporary, non-permanent use of land; all uses authorized pursuant to this ordinance would involve temporary, non-permanent improvements in the public right-of-way including temporary structures, tables and seating.

Class 5 categorical exemptions (Minor Alterations in Land Use Limitations) covers projects that consist of minor alterations in land use limitation in areas with an average slope of less than 20%, which do not result in any changes in land use or density including but not limited to issuance of minor encroachment permits. (CEQA Guideline § 15305.) This Ordinance will result in the issuance of permits for use and encroachment into the public right-of-way.

Section 15183 provides that when a proposed project is consistent with a General Plan or community plan for which an Environmental Impact Report (EIR) was certified, subsequent environmental review may only be required to examine “project-specific significant effects, which are peculiar to the project or its site.” On July 19, 2021, the City Council approved a resolution certifying the EIR that was prepared to analyze the environmental impacts of the City’s General Plan 2040 and Downtown Precise Plan. The City Council adopted both Plans as well as a statement of overriding considerations on August 2, 2021. As the conversion of on-street parking for use as outdoor dining is part

of a strategy identified in the Downtown Precise Plan for creating civic spaces in infill conditions, this Ordinance is consistent with the Downtown Precise Plan and associated EIR. The project is therefore, exempt from CEQA pursuant to section 15183 of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance or its implementation would have a significant effect on the environment.

The proposed Ordinance is consistent with these exemptions, because the requested action will not result in a direct or reasonably foreseeable change in the environment and because there is no possibility that the activity in question may have a significant effect on the environment.

Division 6. Severability.

The City Council hereby declares every section, paragraph, sentence, clause, and phrase of this Ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this Ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Division 7. Publication; Effective Date.

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for or against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 19th day of September 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the ____ day of _____ 2022 by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

KATE COLIN, Mayor

Attest:

LINDSAY LARA, City Clerk

Exhibit A

Chapter 11.70 – “STREETARIES” OUTDOOR EATING AREAS

11.70.010 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning set forth below. Unless in direct conflict with terms defined herein, other words and phrases shall be interpreted as defined in the Streets and Highways Code:

- A. “Outdoor eating area” shall have the same meaning as set forth in Section 14.03.030 of Title 14.
- B. “Parking spaces within the public right-of-way” shall mean the designated on-street or off-street area where parking of vehicles does not violate any posted parking restriction and the use of the space does not interfere with the safety nor the passage of persons and vehicles.
- C. “Permittee” shall mean the permit holder of a valid streetary encroachment permit issued by the city.
- D. “Streetary” or “streetaries” shall mean an outdoor eating area that operates within and uses parking spaces within the public right-of-way directly adjacent to the food service establishment street frontage. Outdoor eating areas operating within or using sidewalks within the public right-of-way are not covered under this chapter and are subject to the applicable standards under Section 14.16.277 of Title 14.

11.70.020 - Permit required.

Any person desiring to erect, construct, place or maintain an encroachment upon any existing parking spaces within the public right-of-way for a streetary must first obtain an annual streetary encroachment permit pursuant to this chapter. Each applicant for an annual streetary encroachment permit shall comply with the requirements of this chapter, any other applicable laws, and any regulations and policies adopted pursuant to this chapter.

Permits shall only be issued to applicants with a valid business license issued by the city to operate a food service establishment directly adjacent to the parking spaces within the right-of-way for which a streetary encroachment permit is sought.

All persons operating and/or maintaining a streetary as of the effective date of this ordinance shall be required to obtain a streetary encroachment permit and pay applicable fees no later than December 1, 2022. Failure to obtain a streetary encroachment permit within this time period shall constitute a violation of this chapter and may subject the current streetary operator to closure and/or enforcement pursuant to this chapter.

11.70.030 - Permit application.

The director of public works (the "director") shall establish an application form for an annual streetary encroachment permit, including any application materials deemed necessary to enable complete review of the application. The application shall be accompanied by a permit application fee required under Section 11.70.040.

The director shall transmit a copy of each application for an annual streetary encroachment permit to the director of community development (the "planning director"). The planning director shall review the application for compliance with all applicable design and development standards.

11.70.040 - Fees.

Each permit application shall be accompanied by a permit application fee. Prior to permit issuance, the permittee shall pay an annual encroachment lease fee and a one-time, refundable deposit. Fees shall be in amounts established by separate resolution of the City Council.

11.70.050 - Where permitted.

- A. Streetaries are permitted in existing parking spaces within the right-of-way in all commercial districts.
- B. Streetaries are only permitted in the parking spaces within the right-of-way directly adjacent to the food service establishment street frontage.
- C. Notwithstanding subsection A, above, streetaries shall not be permitted along streets with (1) peak hour parking restrictions or (2) speeds limits greater than 25 miles per hour.
- D. Notwithstanding subsection A, above, streetaries shall not be permitted in parking spaces that (1) are ADA designated, (2) are adjacent to curbs designated for no parking (red curb), passenger loading zones (white curb), commercial loading zones (yellow curb), limited parking zones (green) and/or any other colored curb zones with restrictions, (3) would block or obstruct any fire hydrant, fire department sprinkler or standpipe hose, or other public safety infrastructure, (4) would obstruct utility access panels, manhole covers, storm drains, street valves, or any other type of utility assets, or (5) would obstruct any bicycle facility.

11.70.060 - Location criteria.

- A. Maximum parking stalls. A maximum of two parallel parking spaces shall be used for each streetary.
- B. Parking sufficiency. Seventy percent (70%) of on-street parking on any three-block average (the streetary location's block and one block in either direction) must remain available for vehicles at any given time. The director may make an exception if the entrance to a public parking garage or lot is within 300 feet of the streetary location.
- C. Adjacency to storefront. Streetaries may only be permitted in parking spaces within the right-of-way that are directly in front of the permittee's food service

establishment business. If a food service establishment fronts more than one but less than two parking spaces and fronts more than fifty percent (50%) of the second parking space, the permittee is eligible to apply for two parking spaces for use as a streetary.

- D. Travel lane setback. Streetaries shall have an eighteen inch (18") 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 or their designee.
- E. Side setback. Streetaries shall have a two-foot minimum side setback to each wheel stop located at each end of the parking space.
- F. Utilities. A minimum clearance of four feet (4') 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 shall meet the minimum vertical distance requirements as established by the California Public Utility Commission. Streetaries that block the outlet of a sidewalk underdrain shall ensure the outlet is functional and flowing. Permittees shall take a thorough inventory of utility access covers in the proposed streetary area by checking under parked cars. Permittees shall 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 permittee temporarily remove all or a portion of the constructed streetary. Permittees shall be responsible for the cost of removing, re-installing and restoring any damage to the streetary.

11.70.070 - Design and development standards.

The city council shall, by separate resolution, adopt design and development standards regulating the form, design, safety and maintenance of streetaries. The director may, from time to time, make minor modifications to the design and development standards.

11.70.080 - Criteria for issuance.

- A. The director, in acting upon any application for a streetary encroachment permit, shall either approve, approve with conditions or deny the issuance of a permit based on the following principles and standards:
 - 1. That the applicant has paid all fees required under Section 11.70.040.
 - 2. That the proposed use of the parking spaces within the public right-of-way is in compliance with all applicable provisions of this chapter;
 - 3. That the proposed use of the parking spaces in the public right-of way is so arranged as to ensure the protection of public health, safety and general welfare, and prevent interference with users of the sidewalks, streets and holders of other permits; and

4. That the proposed use will properly comply with the provisions and development standards prescribed in this chapter, or as prescribed by the director and/or planning director.
- B. The streetary encroachment permit may be subject to additional conditions where the city has documented any violation of this chapter, other applicable laws and regulations, or the streetary 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.
 - C. Deviations from adopted standards. Where the director determines that (1) a strict application of standards set forth in this chapter cannot be met by a proposed streetary, and (2) the streetary, as proposed, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood, the director may grant exceptions or minor modifications to the standards set forth in this chapter.

11.70.090 - Limited to food service establishments.

All permits issued pursuant to this chapter shall be limited to streetaries established in conjunction with and abutting food service establishments.

11.70.100- Operational standards.

- A. No live entertainment or amplified music. No live entertainment or amplified music shall be permitted in streetaries established pursuant to this chapter without first obtaining all required permits including but not limited to those issued pursuant to Section 8.13.060 of Title 8.
- B. No outdoor food preparation, flames, heating. Outdoor food preparation, food heating mechanisms, cooking and open flames, hotpots, candles, open flames, and barbecues shall not be permitted in streetaries.
- C. Alcohol service. Alcohol service shall be permitted subject to the acquisition of all required local and State permits and licenses.
- D. Noise and disruptive behavior. Permittees shall be responsible for ensuring their patrons minimize noise and disruptive behavior while using their streetary space.
- E. 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.
- F. ADA compliance. Streetary seating areas must, at all times, 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 ADA access shall be required.

- G. Hours of operation. The streetary shall adhere to the same approved hours of operation as the associated food service establishment business, with the following limitations:
1. For streetaries that are within 150-foot horizontal or vertical distance from residences: Streetaries shall not commence operations prior to 7 a.m. on Saturdays, Sundays, and holidays; Streetaries shall not commence operations prior to 6 a.m. Monday through Friday; Streetaries shall not operate after 10 p.m. on Fridays and Saturdays; Streetaries shall not operate after 9 p.m. Sunday through Thursday and holidays. For purposes of this section, "holidays" shall have the same meaning as set forth in chapter 8.13 (Noise) of title 8.
- H. 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 during the operational hours of the food service establishment associated with the streetary, except in inclement weather and subject to the hours of operation limitations under subsection G. The city has the right to notify any streetary permittee in writing of insufficient usage and invoke the enforcement procedures set forth in this chapter.

11.70.110 - Indemnification and insurance.

As a condition of the issuance of an annual streetary encroachment permit, the permittee shall defend, indemnify and hold harmless the City of San Rafael and shall present, along with each application or renewal application for an annual permit, evidence of liability insurance in a form acceptable to the director.

11.70.120 – Enforcement.

- A. Any person who violates this chapter shall be guilty of a misdemeanor and may be subject to any and all enforcement proceedings or remedies, including the imposition of penalties as authorized by law. The provisions of this chapter are cumulative to any other remedies authorized by law. Any streetary may be subject to inspection by the city on an annual basis or as needed to ensure compliance with this chapter and permits issued pursuant to this chapter.
- B. The city retains the right to revoke a streetary encroachment permit at any time where a violation of this chapter has occurred and/or revocation is necessary to protect the public interest, health, safety and/or welfare of the community. If the director believes that a permittee is in violation of this chapter, the director may issue a notice of violation to the permittee. The notice of violation shall be served on the permittee, either in person or by first class mail. The notice shall indicate that the permit is subject to termination unless, within 30 days of service of the notice of violation, the violation is corrected or a hearing pursuant to this chapter is requested in writing. If the director or his designee determines that a permittee will not be able to continue to meet the requirements of this chapter because of a proposed public highway right-of-way improvement, the director or their

designee shall notify the permittee, either in person or by first class mail, that the permit will be terminated within 30 days of service of the notice of termination.

11.70.130 – Appeals.

Any person aggrieved by the director's action on a streetary encroachment permit application or revocation may appeal by submitting a written appeal to the city manager, along with any applicable appeal fee as provided in the city's master fee schedule, within fifteen (15) days of the date on which the permit was issued or on which the application was denied or on which the permit was revoked. The city manager, or his designee, shall hold a hearing on the appeal within thirty (30) days of receipt of the appeal, and shall give the applicant and the appellant at least ten (10) days' written notice of the time of the hearing. The decision by the city manager or his designee on the appeal shall be final.



SAN RAFAEL CITY COUNCIL AGENDA REPORT
Department: City Clerk
Prepared by: Lindsay Lara, City Clerk
City Manager Approval: 

TOPIC: BOARDS AND COMMISSIONS UPDATES
SUBJECT: RESOLUTION AND ORDINANCE CHANGES TO EXISTING CITY BOARDS AND COMMISSIONS
I. INTRODUCE AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING SECTIONS 2.16.030 THROUGH 2.16.033 OF THE SAN RAFAEL MUNICIPAL CODE RELATED TO THE BOARD OF LIBRARY TRUSTEES
II. RESOLUTION AMENDING THE BOARD OF LIBRARY TRUSTEES BYLAWS
III. INTRODUCE AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING SECTION 14.25.070 AND ADDING SECTIONS 2.16.120 THROUGH 2.16.122 OF THE SAN RAFAEL MUNICIPAL CODE RELATED TO THE DESIGN REVIEW BOARD
IV. RESOLUTION AMENDING THE DESIGN REVIEW BOARD BYLAWS
V. INTRODUCE AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING SECTIONS 2.16.010 THROUGH 2.16.013 OF THE SAN RAFAEL MUNICIPAL CODE RELATED TO THE FIRE COMMISSION
VI. RESOLUTION AMENDING THE FIRE COMMISSION BYLAWS

RECOMMENDATION:
1. Introduce the ordinance relating to the Board of Library Trustees by title only and waive further reading of the ordinance
2. Adopt the Resolution Amending the Board of Library Trustees Bylaws
3. Introduce the ordinance relating to the Design Review Board by title only and waive further reading of the ordinance
4. Adopt the Resolution Amending the Design Review Board Bylaws
5. Introduce the ordinance relating to the Fire Commission by title only and waive further reading of the ordinance
6. Adopt the Resolution Amending the Fire Commission Bylaws

BACKGROUND:
With the exception of the Planning Commission, which is a decision-making body, the City's Boards, commissions, and committees ("BCC's") are advisory bodies, made up of volunteer community members who are appointed by the City Council to serve in an advisory role by reviewing and making recommendations to the City Council on matters within a certain purview. The City of San Rafael has 12 active BCC's, each with varying styles of guidelines which outline how they carry out business as an

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

advisory body to the San Rafael City Council. BCCs are either established by the voters (through a ballot initiative), by resolution of the City Council, or ordinance (and codified in the San Rafael Municipal Code) and the Council has the discretion to both add and remove volunteers.

On [June 6, 2022](#), the City Council approved changes to the Bicycle and Pedestrian Advisory Committee, the Park and Recreation Commission and the Planning Commission in an effort to bring consistency and uniformity across the City’s Boards and Commissions program. The updates made at the June 6, 2022 City Council meeting included changes to the composition of the BCC’s. The changes being proposed in this staff report focus on changing masculine language in the municipal code to gender neutral language, provides authority to the City Council to approve compensation of board members and commissioners by resolution, and update the scope of a few BCCs to better reflect current practices.

ANALYSIS:

Staff is recommending changes to the Board of Library Trustees, Design Review Board, and the Fire Commission. All recommended changed are explained below.

Board of Library Trustees

The Board of Library Trustees is required per the City’s Charter. Board membership, terms, and powers and duties are set forth in San Rafael Municipal Code Sections 2.16.030 through 2.16.033 of Chapter 2.16 (Boards and Commissions). Staff is recommending that the City Council adopt an ordinance (Attachment 1) amending the code to provide authority to the City Council to approve compensation of Board Members by resolution, to remove the clause regarding term of office and removal due to duplicity, amend all masculine language to gender neutral language, and to remove the Board’s duty to review and make comments and recommendations regarding the annual operating budget of the department, as the City Council is the budget review authority.

In addition, staff is recommending adoption of bylaws for the Board to be consistent with recently approved bylaws for other boards, to include clear information on meetings, voluntary resignation and compensation, and to include the policy on term limits as outlined in [Resolution No. 13681 approved by the City Council in February 2014](#). These rules and procedures are consistent with current practice; however, incorporating them into bylaws will clarify the expectations for Board members. Attachment 2 to this report is a resolution adopting the proposed bylaws. Additionally, staff recommends including eligibility requirements for the Board to formalize the current practice of requiring residency in city limits.

Present	Proposed
Ordinance	
Requirement to serve without compensation set by Municipal Code	Provides authority to approve compensation of Board members by resolution
Board’s duty to review, comment, and recommend department operating budget	Removes this duty as it is a function of the San Rafael City Council
Term of office and removal of Board members	Deletion – duplicative (Article IX, Section 1)
Masculine language	Gender-neutral language
Resolution & Bylaws	
Silent on eligibility requirements	Must reside in city limits
Silent on voluntary resignation	2 consecutive unexcused absences constitute voluntary resignation
Silent on the term limits approved in 2014	Maximum of 2 consecutive four-year terms

Design Review Board

The Design Review Board membership, terms, and powers and duties are set forth in San Rafael Municipal Code Section 14.25.070 of Chapter 14.25 (Environmental and Design Review Permits). Staff is recommending that the City Council adopt an ordinance (Attachment 3) amending the code to delete provisions relating to term of office, removal or vacancy of membership, meetings, quorum, and rules of order. Staff recommends this information be included in the Bylaws for the Board and be adopted by resolution in an effort to remain consistent with other boards and commissions. Additionally, staff recommends removal of compensation information in the municipal code, and provide authority to the City Council to approve compensation by resolution.

Staff also recommends moving the remaining provisions governing administration of the Design Review Board from Section 14.25.070 to new Sections 2.16.120 through 2.16.122 established under Chapter 2.16 (Boards and Commissions). This move will consolidate the provisions governing administration of the Design Review Board with provisions governing administration of the other boards and commissions of the City.

Staff recommends retaining under Section 14.25.070 the subsection governing the pilot program approved by the City Council in May 2022 for streamlined review of certain residential projects of the Environmental and Design Review Permits because this is a specific program for permitting of certain residential structures.

In addition, staff is recommending adoption of bylaws for the Board to be consistent with recently approved bylaws for other boards, to include clear information on meetings, voluntary resignation and compensation, and to include the policy on term limits as outlined in [Resolution No. 13681 approved by the City Council in February 2014](#). These rules and procedures are consistent with current practice; however, incorporating them into bylaws will clarify the expectations for Board members. Attachment 4 to this report is a resolution adopting the proposed bylaws.

Present	Proposed
Ordinance	
Membership and Powers and Duties	Moved to Sections 2.16.120 through 2.16.122
Membership, term of office, removal or vacancy of membership, meetings, quorum, and compensation	Deletion – will be designated by resolution adopting bylaws
Masculine language	Gender-neutral language
Resolution & Bylaws	
Silent on voluntary resignation	2 consecutive unexcused absences constitute voluntary resignation
Silent on the term limits approved in 2014	Maximum of 3 consecutive four-year terms

Fire Commission

The Fire Commission is required per the City’s Charter. Board membership, terms, and powers and duties are set forth in San Rafael Municipal Code Sections 2.16.010 through 2.16.013 of Chapter 2.16 (Boards and Commissions). Staff is recommending that the City Council adopt an ordinance (Attachment 5) amending the code to provide authority to the City Council to approve compensation of Board Members

by resolution, to remove the clause regarding term of office and removal due to duplicity, amend all masculine language to gender neutral language, and to remove the Commission’s duty to review and make comments and recommendations regarding the annual operating budget of the department, as the City Council is the budget review authority.

In addition, staff is recommending adoption of bylaws for the Commission to be consistent with recently approved bylaws for other boards, to include clear information on meetings, voluntary resignation and compensation, and to include the policy on term limits as outlined in [Resolution No. 13681 approved by the City Council in February 2014](#). These rules and procedures are consistent with current practice; however, incorporating them into bylaws will clarify the expectations for Commissioners. Attachment 6 to this report is a resolution adopting the proposed bylaws. Additionally, staff recommends including eligibility requirements for the Commission to formalize the current practice of requiring residency in city limits.

Present	Proposed
Ordinance	
Requirement to serve without compensation set by Municipal Code	Provides authority to approve compensation of Commissioners by resolution
Board’s duty to review, comment, and recommend department operating budget	Removes this duty as it is a function of the San Rafael City Council
Term of office and removal of Commissioners	Deletion – duplicative (Article VIII, Section 10)
Masculine language	Gender-neutral language
Resolution & Bylaws	
Silent on eligibility requirements	Must reside in city limits
Silent on voluntary resignation	2 consecutive unexcused absences constitute voluntary resignation
Silent on the term limits approved in 2014	Maximum of 2 consecutive four-year terms

City Council Role with BCCs

On an annual basis, the City Council designates liaison positions to the BCCs. The role of the liaison is to generally stay abreast of the activities of the BCC which may include attending one or more meetings per year, checking in with the Chair of the BCC on a quarterly basis, reporting out on significant activities during City Council meetings as needed, assisting in culling down applications into an interview list when there is a vacancy, and providing a “mentor” role for the needs of the BCCs which could relate to answering procedural questions, facilitating training, or other assistance. Additionally, the Mayor may act in the acting role of the City Council liaison for each BCC.

Alternate Members

Attendance at any regularly scheduled meeting is a necessary part of being an effective Alternate Member. If a regular member is unable to attend a scheduled meeting, the Member notifies the staff liaison in advance and the Alternate Member is notified of their attendance as a full voting member. Alternate Members will be expected to review all meeting materials in preparation for BCC meetings and will vote in the absence of a full voting member. If more than one Alternate Member exists, there shall be a pre-determined first and second Alternate, and they will alternate between first and second Alternate Member annually. First Alternates shall vote in the absence of one voting member, and Second Alternates shall vote in the absence of a second voting member. If no member is absent, the Alternate Member may

still participate in the discussion, deliberation and questions/answers of staff during meetings but will not vote.

FISCAL IMPACT:

There is no fiscal impact associated with this recommendation.

OPTIONS:

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

1. Adopt resolutions and introduce the ordinances.
2. Adopt resolutions/ introduce the ordinances with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

1. Introduce the ordinance relating to the Board of Library Trustees by title only and waive further reading of the ordinance
2. Adopt the Resolution Amending the Board of Library Trustees Bylaws
3. Introduce the ordinance relating to the Design Review Board by title only and waive further reading of the ordinance
4. Adopt the Resolution Amending the Design Review Board Bylaws
5. Introduce the ordinance relating to the Fire Commission by title only and waive further reading of the ordinance
6. Adopt the Resolution Amending the Fire Commission Bylaws

ATTACHMENTS:

1. Ordinance (Board of Library Trustees)
2. Resolution (Board of Library Trustees) & Exhibit A – Bylaws
3. Ordinance (Design Review Board)
4. Resolution (Design Review Board) & Exhibit A – Bylaws
5. Ordinance (Fire Commission)
6. Resolution (Fire Commission) & Exhibit A – Bylaws
7. Correspondence

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING
SECTIONS 2.16.030 THROUGH 2.16.033 OF THE SAN RAFAEL
MUNICIPAL CODE RELATED TO THE BOARD OF LIBRARY
TRUSTEES**

WHEREAS, Article IX, Section 1 of the Charter of the City of San Rafael requires the City Council to appoint a Board of Library Trustees of the City of San Rafael; and

WHEREAS, regulations governing the Board of Library Trustees of the City of San Rafael are located in the San Rafael Municipal Code (SRMC) Sections 2.16.030 through 2.16.033 of Chapter 2.16 (Boards and Commissions); and

WHEREAS, staff recommends amending SRMC Section 2.16.031 (Trustee membership-Compensation) by replacing the provision that members serve without compensation with a provision that authorizes the City Council to establish their compensation by resolution; and

WHEREAS, staff recommends removing the Board's duty to review, and make comments and recommendations regarding the annual operating budget of the library department by deleting the applicable provision from the SRMC Section 2.16.033 (Trustee powers and duties); and

WHEREAS, there are instances throughout the SRMC where masculine language is used, and staff recommends amending the language to be gender-neutral; and

WHEREAS, there are instances throughout the SRMC where the term 'citizen' is used, and staff recommends replacing this term with the terms 'community' or 'patron'; and

WHEREAS, staff recommends repealing Section 2.16.032 of the SRMC (Trustee term of office and removal) in its entirety because it is duplicative of information set forth in Article IX, Section 1 of the San Rafael Charter.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
DOES ORDAIN AS FOLLOWS:**

Division 1. Amendment of Municipal Code.

Sections 2.16.030 through 2.16.033 of Chapter 2.16 (Boards and Commissions) of the San Rafael Municipal Code are hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

2.16.030 - Board of library trustees.

A board of library trustees is created.

(Ord. 889 § 6, 1967).

** Board of library trustees —See San Rafael Charter, Art. IX § 1.*

2.16.031 - Trustee membership—Compensation.

The board of library trustees shall consist of five members appointed by the city council, one of whom may be a ~~councilman~~ councilmember. ~~All members shall serve without compensation.~~ The City Council may establish compensation for members of the board of library trustees by resolution.

(Ord. 889 § 7 (part), 1967).

2.16.032 - ~~Trustee term of office and removal.~~ Reserved

~~The members of the board of library trustees shall serve for a term of four years and shall be subject to removal by the affirmative vote of three members of the city council. The terms of office of members of the board of library trustees shall be staggered in the manner provided by resolution of the city council.~~

(Ord. 889 § 7 (part), 1967).

2.16.033 - Trustee powers and duties.

Subject to the direction and control of the city council, as provided in Section 2.04.030 of this code, the powers and duties of the board of library trustees shall be:

To assess and evaluate current and long-range needs of the library; to formulate and adopt policies, rules and regulations with respect to programs and facilities to meet such needs of the community, including recommendations for sites and design of facilities. Such formulations and adoptions shall be made in conjunction with recommendations of the librarian;

~~To review, comment and make recommendations regarding the annual operating budget of the library;~~

To receive, and review periodic reports from the librarian concerning the general operations and functions of the library;

To recommend ways to inform the ~~citizens of San Rafael~~ community as to the various programs, services and assistance which the library affords all its patrons~~citizens~~;

To promote intergovernmental cooperation in the development of library services, patronage and usage;

To perform such other duties as may be prescribed by the city council.

(Ord. 1131 § 3, 1974: Ord. 889 § 7 (part), 1967).

Division 2. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

Division 3. CEQA Determination.

This Ordinance makes only administrative changes to the operations of a City board and is therefore exempt from the requirements of the California Environmental Quality Act (CEQA) under 14 Cal. Code Regs. §15061(b)(3), the common sense exemption, because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

Division 4. Publication; Effective Date.

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.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 19th day of September 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the ___ day of ____ 2022 by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

KATE COLIN, Mayor

Attest:

LINDSAY LARA, City Clerk

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
APPROVING BYLAWS OF THE BOARD OF LIBRARY TRUSTEES**

WHEREAS, the City Council wishes to establish consistent rules and procedures for the operation of its boards, commissions and committees, including the Board of Library Trustees; and

WHEREAS, staff recommends adoption of the Board of Library Trustees Bylaws in Exhibit A attached hereto, which include specific rules and practices for the operation of the Board to be consistent with recently approved bylaws for other City boards and commissions; and

WHEREAS, the attached bylaws include a provision for voluntary resignation of members based on unexcused absences;

WHEREAS, the attached bylaws include the policy on term limits as outlined in Resolution 13681 limiting Board Members to a maximum of two consecutive four-year term limits;

WHEREAS, the attached bylaws include eligibility requirements of living in city limits.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby adopts the Board of Library Trustees Bylaws attached hereto as Exhibit A.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 19th day of September 2022, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

EXHIBIT A: BOARD OF LIBRARY TRUSTEES BYLAWS

BOARD OF LIBRARY TRUSTEES BYLAWS

ARTICLE I. NAME AND PURPOSE

Section 1.1. Name. The name of this body shall be the City of San Rafael Board of Library Trustees, hereinafter referred to as the "Library Board," or the "Board."

Section 1.2. Purpose. The purpose of the Board is to support the Library Director, support the Library Foundation in its quest for a new library, serve as advocates for the Library to the City Council, and help increase the visibility of the Library in the community.

Section 1.3. Board Responsibility. The Library Board's responsibilities shall be in accord with these Bylaws, as amended from time-to-time by the City Council. The Library Board's authority is advisory only. The Library Board has no power to act on behalf of the City of San Rafael or any other entity.

Subject to the direction and control of the city council, as provided in Section 2.04.030 of the San Rafael Municipal Code, the powers and duties of the Board of Library Trustees shall be:

1. To assess and evaluate current and long-range needs of the library;
2. to formulate and adopt policies, rules and regulations with respect to programs and facilities to meet such needs of the community, including recommendations for sites and design of facilities. Such formulations and adoptions shall be made in conjunction with recommendations of the librarian;
3. To receive, and review periodic reports from the librarian concerning the general operations and functions of the library;
4. To recommend ways to inform the San Rafael community as to the various programs, services, and assistance which the library affords all patrons;
5. To promote intergovernmental cooperation in the development of library services, patronage and usage;
6. To perform such other duties as may be prescribed by the city council.

ARTICLE II. MEMBERSHIP

Section 2.1. Number of Members. The Library Board shall consist of five (5) voting members. The City Council has the authority to appoint alternates as needed.

Section 2.2. Eligibility. Board members shall be residents of the city of San Rafael.

Section 2.3. Appointment of Board Members. Members shall be appointed by the City

Council. Appointments shall be published on the website for the City of San Rafael in accordance with Government Code Section 54973, as amended from time to time.

Section 2.4. Terms of Appointment. Each Board member shall serve a minimum term of four (4) years. An effort will be made to ensure that the terms are staggered, and not all of the appointments expire in the same year.

Section 2.5. Term Limits. Members of the Board shall be limited to two (2) consecutive four-year terms. Additional terms may be served if there is a break between terms.

Section 2.6. Absence and Removal. An unexcused absence from two (2) consecutive Board meetings without notification to the Staff Liaison shall be considered a voluntary resignation from the Board. Previously dismissed Board members may be eligible for reappointment to the Board. The members of the Board shall be subject to removal by the affirmative vote of three members of the city council.

Section 2.7. Compensation. Board members serve without compensation.

ARTICLE III. MEETINGS

Section 3.1. Time and date of Regular Meeting. Notification of meeting place, date, and time shall be rendered to the public through posting on the City of San Rafael website. The Board shall meet once per month, unless there is no business to conduct, and shall be scheduled annually. The schedule for the upcoming year will be set by December of the previous year.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING SECTION 14.25.070 AND ADDING SECTIONS 2.16.120 THROUGH 2.16.122 OF THE SAN RAFAEL MUNICIPAL CODE RELATED TO THE DESIGN REVIEW BOARD

WHEREAS, regulations governing the Design Review Board of the City of San Rafael are located in the San Rafael Municipal Code (SRMC) Section 14.25.070 (Environmental and Design Review Permits); and

WHEREAS, staff recommends deleting provisions of Section 14.25.070 relating to the Board's term of office, removal or vacancy of membership, meetings, quorum, and rules of order; and

WHEREAS, staff recommends that the remaining regulations under Section 14.25.070 relating to Board membership and powers and duties be moved to new Sections 2.16.120 through 2.16.122 of Chapter 2.16 (Boards and Commissions); and

WHEREAS, staff recommends that the regulation under Section 14.25.070 relating to streamlined reviews of certain residential projects remain in that section of the code; and

WHEREAS, staff recommends the removal of compensation information from the municipal code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Division 1. Amendment of Section 14.25.070 of Municipal Code.

Section 14.25.070 of Chapter 14.25 (Environmental and Design Review Permits) of the San Rafael Municipal Code is hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.25.070 - ~~Design review board~~ Streamlined Review of Certain Residential Projects.

A. ~~Purpose and Authority.~~

- ~~1. The design review board shall serve as an advisory body to the city for the purpose of reviewing and formulating recommendations on all major physical improvements requiring environmental and design review permits, except that an alternate streamlined review process is allowed for certain eligible projects as described below. The design review board may also serve as an advisory body on other design matters, including minor physical improvements or administrative design permits, referred to the board by the community development director, planning commission or city council. The design review board shall provide professional design analysis, evaluation and judgment as to the completeness, competence and appropriateness of development proposals for the use and setting and to recommend approval, approval with conditions, redesign or denial based on design standards adopted by the city council.~~

~~2. Streamlined Review of Certain Residential Projects.~~

The following residential projects shall be eligible for a streamlined review process, as established by City Council resolution under a pilot program known as the "streamlined review for certain residential projects."

- a. ~~A.~~ Residential structures of three (3) to ten (10) units.
- b. ~~B.~~ Additions to multifamily residential structures of between three (3) to ten (10) units, where the addition constitutes no more than forty (40) percent of the total square footage of the building and would not increase the unit count by more than three (3) units.

This streamlined review process allows for a joint meeting of the planning commission and two (2) representatives of the design review board. The framework, roles and membership of the design review board representatives for a streamlined review process shall be as established by city council resolution.

~~B. Membership of the Design Review Board. The design review board shall consist of a total of five (5) regular members and may include one alternate member appointed by the city council. The design review board members shall be qualified as follows:~~

- ~~1. At least two (2) members shall be licensed architects or licensed building designers;~~
- ~~2. At least one member shall be a licensed landscape architect;~~
- ~~3. At least one of the five (5) members shall have background or experience in urban design;~~
- ~~4. The alternate member may have qualifications in any of the above fields of expertise;~~
- ~~5. All board members shall reside in the city of San Rafael; and~~
- ~~6. In addition to the five (5) council appointed board members and one alternate member, one planning commissioner shall attend board meetings. This liaison planning commissioner shall be appointed by the commission chairperson. An additional commissioner shall be appointed to serve as an "alternate liaison" in case of absence. The planning commission liaison should be present at all design review board meetings to offer advice and direction to the board on matters of commission concern.~~

~~C. Alternate Member. The alternate member may temporarily fill a vacancy created when a regular member: (1) leaves office prior to completion of the member's term; (2) cannot attend a meeting; or (3) cannot participate on a particular matter due to a conflict of interest.~~

~~D. Term of Office. The term of office for each design review board member shall be four (4) years. Of the members of the board first appointed, one shall be appointed for the term of one year; one for the term of two (2) years; one for the term of three (3) years; and two (2) for the term of four (4) years. The term of office for the alternate board member shall be four (4) years concurrent with the term of the chairperson.~~

~~E. Removal or Vacancy of Membership. Any member of the board or the alternate member can be removed at any time by a majority vote by the city council. A vacancy shall be filled in the same manner as the original appointment. The person appointed to fill a vacancy shall serve for the remainder of the unexpired term.~~

~~F. Meetings. At least one (1) regular design review board meeting shall be held each month on a date selected by the board, unless there is no business to conduct. The design review board may adopt and amend as necessary, Rules of Order ensuring efficient and responsive board meetings.~~

~~G. Quorum. Three (3) of the members of the board, either regular members or two (2) regular members and the alternate board member, shall be required to constitute a~~

~~quorum for the transaction of the business of the board and the affirmation vote of a majority of those present is required to take any action.~~

~~H. Compensation of the Design Review Board. All members of the board shall serve as such without compensation.~~

~~I. The design review board may adopt, and amend as necessary, Rules of Order to ensure efficient and responsive board meetings.~~

~~(Ord. 1838 § 53, 2005; Ord. 1794 § 2, 2003; Ord. 1625 § 1 (part), 1992).~~

~~(Ord. No. 1882, Exh. A, § 94, 6-21-2010; Ord. No. 2006, § 1, 5-2-2022)~~

Division 2. Addition to Chapter 2.16 of Municipal Code.

Sections 2.16.120 through 2.16.122 are hereby adopted and made a part of Chapter 2.16 (Boards and Commissions) of the San Rafael Municipal Code as follows. Additions are shown in underline.

2.16.120 Design review board – creation.

A design review board is created.

2.16.121 Design review board membership - compensation.

The design review board shall consist of a total of five (5) regular members and may include one alternate member appointed by the city council. The design review board members shall be qualified as follows:

1. At least two (2) members shall be licensed architects or licensed building designers;
2. At least one member shall be a licensed landscape architect;
3. At least one of the five (5) members shall have background or experience in urban design;
4. The alternate member may have qualifications in any of the above fields of expertise;
5. All board members shall reside in the city of San Rafael; and
6. In addition to the five (5) council-appointed board members and one alternate member, one planning commissioner shall attend board meetings. This liaison planning commissioner shall be appointed by the commission chairperson. An additional commissioner shall be appointed to serve as an "alternate liaison" in case of absence. The planning commission liaison should be present at all design review board meetings to offer advice and direction to the board on matters of commission concern.

Alternate Member. The alternate member may temporarily fill a vacancy created when a regular member: (1) leaves office prior to completion of the member's term; (2) cannot attend a meeting; or (3) cannot participate on a particular matter due to a conflict of interest.

The city council may establish compensation for members of the design review board by resolution.

2.16.122 – Design review board powers and duties.

Subject to the direction and control of the city council, as provided in Section 2.04.030 of this code, the powers and duties of the design review board shall be:

To serve as an advisory body to the city for the purpose of reviewing and formulating recommendations on all major physical improvements requiring environmental and design

review permits, except that an alternate streamlined review process may be allowed for certain eligible projects by ordinance or resolution of the city council.

To serve as an advisory body on other design matters, including minor physical improvements or administrative design permits, referred to the board by the community development director, planning commission or city council.

To provide professional design analysis, evaluation and judgment as to the completeness, competence and appropriateness of development proposals for the use and setting and to recommend approval, approval with conditions, redesign or denial based on design standards adopted by the city council.

Division 2. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

Division 3. CEQA Determination.

This Ordinance makes only administrative changes to the operations of a City board and is therefore exempt from the requirements of the California Environmental Quality Act (CEQA) under 14 Cal. Code Regs. §15061(b)(3), the common sense exemption, because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

Division 4. Publication; Effective Date.

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.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 19th day of September 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the ___ day of _____ 2022 by the following vote, to wit:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

KATE COLIN, Mayor

Attest:

LINDSAY LARA, City Clerk

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
APPROVING BYLAWS OF THE DESIGN REVIEW BOARD**

WHEREAS, the City Council wishes to establish consistent rules and procedures for the operation of its boards, commissions and committees, including the Design Review Board; and

WHEREAS, the Design Review Board bylaws in Exhibit A attached hereto are recommended by staff and include specific rules and practices for the operation of the Board to be consistent with recently approved bylaws for other City boards and commissions; and

WHEREAS, the attached bylaws include a provision for voluntary resignation of members based on unexcused absences;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby adopts the Design Review Board Bylaws as set forth in Exhibit A.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 19th day of September 2022, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

EXHIBIT A: DESIGN REVIEW BOARD BYLAWS

DESIGN REVIEW BOARD BYLAWS

ARTICLE I. NAME AND PURPOSE

Section 1.1. Name. The name of this body shall be the City of San Rafael Design Review Board, hereinafter referred to as the "Board."

Section 1.2. Purpose. The Board shall serve as an advisory body to the city for the purpose of reviewing and formulating recommendations on all major physical improvements requiring environmental and design review permits, except that an alternate streamlined review process may be allowed for certain eligible projects by ordinance or resolution of the city council. The Board may also serve as an advisory body on other design matters, including minor physical improvements or administrative design permits, referred to the board by the community development director, planning commission or city council. The Board shall provide professional design analysis, evaluation and judgment as to the completeness, competence and appropriateness of development proposals for the use and setting and to recommend approval, approval with conditions, redesign or denial based on design standards adopted by the city council.

Section 1.3. Board Responsibility. The Board's responsibilities shall be in accord with these Bylaws, as amended from time-to-time by the City Council. The Board's authority is advisory only. The Board has no power to act on behalf of the City of San Rafael or any other entity.

ARTICLE II. MEMBERSHIP

Section 2.1. Number of Members. The Board shall consist of a total of five (5) regular members and may include one alternate member appointed by the city council. The design review board members shall be qualified as follows:

1. At least two (2) members shall be licensed architects or licensed building designers;
2. At least one member shall be a licensed landscape architect;
3. At least one of the five (5) members shall have background or experience in urban design;
4. The alternate member may have qualifications in any of the above fields of expertise; and
5. In addition to the five (5) council-appointed Board members and one alternate member, one planning commissioner shall attend Board meetings. This liaison planning commissioner shall be appointed by the commission chairperson. An additional commissioner shall be appointed to serve as an "alternate liaison" in case of absence. The planning commission liaison should be present at all design review board meetings to offer advice and direction to the board on matters of commission concern.

Alternate Member. The alternate member may temporarily fill a vacancy created when a regular member: (1) leaves office prior to completion of the member's term; (2) cannot

attend a meeting; or (3) cannot participate on a particular matter due to a conflict of interest.

Section 2.2. Eligibility. Board members shall be residents of the city of San Rafael.

Section 2.3. Appointment of Board Members. Regular voting members and alternate members shall be appointed by the City Council. Appointments shall be published on the website for the City of San Rafael in accordance with Government Code Section 54973, as amended from time to time.

The liaison Planning Commissioner shall be appointed by the Commission Chairperson. An additional Commissioner shall be appointed to serve as an “alternate liaison” in case of absence.

Section 2.4. Terms of Appointment. Each Board member shall serve a term of four (4) years. An effort will be made to ensure that the terms are staggered, and not all of the appointments expire in the same year.

Section 2.5. Term Limits. Members of the Board shall be limited to three (3) consecutive four-year terms. Additional terms may be served if there is a break between terms.

Section 2.6. Absence and Removal. An unexcused absence from two (2) consecutive Board meetings without notification to the Staff Liaison shall be considered a voluntary resignation from the Board. Previously dismissed Board members may be eligible for reappointment to the Board. The members of the Board shall be subject to removal by the affirmative vote of three members of the city council.

Section 2.7. Compensation. Board members serve without compensation.

ARTICLE III. MEETINGS

Section 3.1. Time and date of Regular Meeting. Notification of meeting place, date, and time shall be rendered to the public through posting on the City of San Rafael website. Regularly scheduled Board meetings shall be the first and third Tuesday of each month, but these dates may be impacted by holidays. A schedule shall be approved annually by the Board. The Board shall meet once per month. The schedule for the upcoming year will be set by December of the previous year.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING SECTIONS 2.16.010 THROUGH 2.16.013 OF THE SAN RAFAEL MUNICIPAL CODE RELATED TO THE FIRE COMMISSION

WHEREAS, Article VIII, Section 10 of the Charter of the City of San Rafael requires the City Council to appoint a Board of Fire Commissioners of the City of San Rafael; and

WHEREAS, regulations governing the Board of Fire Commissioners of the City of San Rafael are located in the San Rafael Municipal Code (SRMC) Sections 2.16.010 through 2.16.013 of Chapter 2.16 (Boards and Commissions); and

WHEREAS, staff recommends amending SRMC Section 2.16.011 (Board membership-Compensation) by replacing the provision that members serve without compensation with a provision that authorizes the City Council to establish their compensation by resolution; and

WHEREAS, staff recommends removing the Commission's duty to review, and make comments and recommendations regarding the annual operating budget of the fire department by deleting the applicable provision from the SRMC Section 2.16.013 (Trustee powers and duties); and

WHEREAS, there are instances throughout the SRMC where masculine language is used, and staff recommends amending the language to be gender-neutral; and

WHEREAS, staff recommends repealing Section 2.16.012 of the SRMC (Board term of office and removal) in its entirety because it is duplicative of information set forth in Article VIII, Section 10 of the San Rafael Charter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Division 1. Amendment of Municipal Code.

Sections 2.16.030 through 2.16.033 of Chapter 2.16 (Boards and Commissions) of the San Rafael Municipal Code are hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strike through~~.

2.16.010 - Board of fire commissioners.*

A board of fire commissioners is created.

(Ord. 889 § 2, 1967: Ord. 825 § 1, 1965: Ord. 422).

* *Fire commission—See San Rafael Charter, Art. VIII § 10.*

2.16.011 - Board membership—Compensation.

The board of fire commissioners shall consist of five members appointed by the city council, one of whom may be a ~~councilman~~ councilmember. The chief of the fire department shall be an ex officio member of the commission, but shall not be entitled to vote as a member of the commission. ~~All members of the commission shall serve without~~

~~compensation. The city council may establish compensation for members of the board of fire commissioners by resolution.~~

~~(Ord. 889 § 3 (part), 1967).~~

~~**2.16.012 Board term of office and removal.**~~

~~The members of the board of fire commissioners shall serve for a term of four years and shall be subject to removal by the affirmative vote of three members of the council. The terms of office of members of the commission shall be staggered in the manner provided by resolution of the city council.~~

~~(Ord. 889 § 3 (part), 1967).~~

2.16.013 - Board powers and duties.

Subject to the direction and control of the city council, as provided in Section 2.04.030 of this code, the powers and duties of the board of fire commissioners shall be:

To review and recommend concerning the future needs of the fire department in respect to long-range capital needs, including buildings, training facilities, and water mains and hydrant replacements;

To review the relationship of the fire department with other governmental agencies and private entities concerning topics which the commission feels present a true and pressing need for the city's fire service, i.e., mutual aid and the fire rating system of the Independent Insurance Office;

~~To review, comment and make recommendations regarding the annual operating budget of the department;~~

To recommend to the fire chief and the city council action concerning initial adoption and future amendments to the fire prevention code, the building code, and other such ordinances which pertain to the prevention of fires within the community;

To receive monthly reports from the department head concerning the general operations and functions of the department;

To perform such other duties as may be prescribed by the city council.

~~(Ord. 1131 § 1, 1974: Ord. 889 § 3 (part), 1967).~~

Division 2. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

Division 3. CEQA Determination.

This Ordinance makes only administrative changes to the operations of a City commission and is therefore exempt from the requirements of the California Environmental Quality Act (CEQA) under 14 Cal. Code Regs. §15061(b)(3), the common sense exemption, because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

Division 4. Publication; Effective Date.

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.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 19th day of September 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the ___ day of ____ 2022 by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

KATE COLIN, Mayor

Attest:

LINDSAY LARA, City Clerk

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
APPROVING BYLAWS OF THE FIRE COMMISSION**

WHEREAS, the City Council wishes to establish consistent rules and procedures for the operation of its boards, commissions and committees, including the Fire Commission; and

WHEREAS, staff recommends adoption of the Fire Commission Bylaws in Exhibit A attached hereto, which include specific rules and practices for the operation of the Commission to be consistent with recently approved bylaws for other City boards and commissions; and

WHEREAS, the attached bylaws include a provision for voluntary resignation of members based on unexcused absences;

WHEREAS, the attached bylaws include the policy on term limits as outlined in Resolution 13681 limiting Commissioners to a maximum of two consecutive four-year term limits;

WHEREAS, the attached bylaws include eligibility requirements of living in city limits.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby adopts the Fire Commission Bylaws attached hereto as Exhibit A.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 19th day of September 2022, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

EXHIBIT A: FIRE COMMISSION BYLAWS

FIRE COMMISSION BYLAWS

ARTICLE I. NAME AND PURPOSE

Section 1.1. Name. The name of this body shall be the City of San Rafael Fire Commission, hereinafter referred to as the “Commission.”

Section 1.2. Purpose. The purpose of the Fire Commission is to advise and support the goals and objectives of the San Rafael Fire Department as articulated by the Fire Chief.

Section 1.3. Commission Responsibility. The Commission’s authority is advisory only. The Fire Commission has no power to act on behalf of the City of San Rafael or any other entity.

Subject to the direction and control of the city council, as provided in Section 2.04.030 of the San Rafael Municipal Code, the powers and duties of the Fire Commission shall be:

1. To review and recommend concerning the future needs of the fire department in respect to long-range capital needs, including buildings, training facilities, and water mains and hydrant replacements;
2. To review the relationship of the fire department with other governmental agencies and private entities concerning topics which the commission feels present a true and pressing need for the city's fire service, i.e., mutual aid and the fire rating system of the Independent Insurance Office;
3. To recommend to the fire chief and the city council action concerning initial adoption and future amendments to the fire prevention code, the building code, and other such ordinances which pertain to the prevention of fires within the community;
4. To receive monthly reports from the department head concerning the general operations and functions of the department;
5. To perform such other duties as may be prescribed by the city council.

ARTICLE II. MEMBERSHIP

Section 2.1. Number of Members. The Commission shall consist of five (5) members, one of which may be a Councilmember. The City Council has the authority to appoint alternates as needed. The Chief of the fire department shall be an ex officio member of the Commission but shall not be entitled to vote as a member of the Commission.

Section 2.2. Eligibility. Commissioners shall be residents of the city of San Rafael.

Section 2.3. Appointment of Commissioners. Commissioners shall be appointed by the City Council. Appointments shall be published on the website for the City of San Rafael in accordance with Government Code Section 54973, as amended from time to time.

Section 2.4. Terms of Appointment. Each Commissioner shall serve a term of four (4) years. An effort will be made to ensure that the terms are staggered, and not all of the appointments expire in the same year.

Section 2.5. Term Limits. Commissioners shall be limited to two (2) consecutive four-year terms. Additional terms may be served if there is a break between terms.

Section 2.6. Absence and Removal. An unexcused absence from two (2) consecutive Commission meetings without notification to the Staff Liaison shall be considered a voluntary resignation from the Commission. Previously dismissed Commissioners may be eligible for reappointment to the Commission. Commissioners shall be subject to removal by the affirmative vote of three members of the city council.

Section 2.7. Compensation. Commissioners serve without compensation.

ARTICLE III. MEETINGS

Section 3.1. Time and date of Regular Meeting. Notification of meeting place, date, and time shall be rendered to the public through posting on the City of San Rafael website. The Commission shall meet once per month, unless there is no business to conduct, and shall be scheduled annually. The schedule for the upcoming year will be set by December of the previous year.

From: Responsible Growth Marin [REDACTED]
Sent: Tuesday, September 6, 2022 11:59 AM
To: Mayor Kate <kate.colin@cityofsanrafael.org>; Rachel Kertz <rachel.kertz@cityofsanrafael.org>; Maribeth Bushey <maribeth.bushey@cityofsanrafael.org>; Eli Hill <eli.hill@cityofsanrafael.org>; Maika Llorens Gulati <maika@cityofsanrafael.org>; Lindsay Lara <lindsay.lara@cityofsanrafael.org>
Cc: Alicia Giudice <alicia.giudice@cityofsanrafael.org>; Leslie Mendez <Leslie.Mendez@cityofsanrafael.org>; Jim Schutz <jim.schutz@cityofsanrafael.org>
Subject: Proposed changes to City Boards, Committees & Commissions (BCCs)

For Public Record

Dear Honorable Mayor and City Council Members,

I will not be able to attend tonight's City Council meeting therefore I am writing to share my questions and comments so hopefully there will be some discussion regarding the points raised and this email is entered into the public record.

The City Council on 6/6/22 changed the composition of the BPAC (bicycle & pedestrian advisory committee), reducing voting membership from 9 to 5, and the Parks & Recreation(P&R) Commission, reducing voting membership from 7 to 5 voting members. The rationale was "to have uniformity among City advisory committees, improve efficiencies in meetings, and have inclusivity of experiences in our members, while remaining manageable".

The City Council also deleted the P&R Commission's authority to review P&R budget and made several changes to the San Rafael Code regarding composition of the Planning Commission, set term limits, and allowed the City Council to set eligibility requirements, quorum, meeting frequency, and compensation.

At this week's meeting the Council will continue this process with the 5-member Library Board of Trustees (allows compensation, sets term limits, removes budget review authority), Design Review Board (deletes code provisions on membership, term of office, removal or vacancy of membership, meetings, quorum, and compensation and allow City Council to decide this by resolution; sets term limits), and Fire Commission (similar changes).

While I totally support consistency and efficiencies across San Rafael Boards, Committees & Commissions, I don't understand the rationale to decrease the autonomy and decision-making responsibility. One must wonder, isn't it dangerous and antidemocratic to consolidate almost all power in the hands of the City Council? Also, I question whether eliminating the quorum requirement would allow by-passing Brown Act regulations?

I plan to see the video so if you are unable to answer my questions in tonight's meeting, please send me a written response.

I sincerely appreciate your consideration.

Respectfully,
Grace Geraghty
Terra Linda Resident - 36 years