

**CITY OF SAN RAFAEL
STREETARY PROGRAM
GUIDELINES AND DESIGN AND DEVELOPMENT STANDARDS
("STANDARDS")**

THESE STANDARDS MUST BE READ IN CONJUNCTION WITH SAN RAFAEL MUNICIPAL CODE (SRMC), CHAPTER 11.70 - "STREETARIES" OUTDOOR EATING AREAS.

BUSINESSES SEEKING TO ESTABLISH OUTDOOR DINING STRUCTURES IN PARKING SPACES WITHIN THE PUBLIC RIGHT-OF-WAY MUST COMPLY WITH THESE STANDARDS.

I. "STREETARIES" OUTDOOR EATING AREAS ORDINANCE

On October 3, 2022, the City of San Rafael City Council adopted Ordinance No. 2016, adding a new chapter 11.70 to the San Rafael Municipal Code ("SRMC"), titled "Streetaries" Outdoor Eating Areas, regulating outdoor eating areas in parking spaces within the public right-of-way. All streetaries operating, or applying to operate, in parking spaces within the public right-of-way must obtain a Streetary Encroachment Permit, and comply with the ordinance and design and development standards set forth in these "Standards".

As defined in the ordinance, "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 Chapter 11.70 or these Standards, and are subject to the applicable standards under Section 14.16.277 of Title 14 of the SRMC.

I. LOCATION AND SETBACK CRITERIA

All streetaries must comply with requirements as outlined Chapter 11.70 of the San Rafael Municipal Code.

A. Streetary Location Criteria

Peak Hour Restrictions/Speed Limits Greater than 25 mph

SRMC 11.70.050(C): Streetaries shall not be permitted along streets with (1) peak hour parking restrictions or (2) speeds limits greater than 25 miles per hour.

Maximum Parking Stalls

SRMC 11.70.060(A): Maximum parking stalls. A maximum of two parallel parking spaces shall be used for each streetary.

Parking Sufficiency

SRMC 11.70.060(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.

Adjacency to Storefront

SRMC 11.70.050(B): Streetaries are only permitted in the parking spaces within the right-of-way directly adjacent to the food service establishment street frontage.

SRMC 11.70.060(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.

Adjacency to Storefront - Shared Streetaries

A streetary shared by two businesses shall not exceed the frontage for the combined businesses.

Adjacency to Storefront Exception - Existing Streetaries

Existing streetaries operating as of the effective date of the Streetary Ordinance will be permitted to continue to operate at their existing location, *provided* that all of the following conditions are met: i) the Streetary in its current condition is in substantial compliance with the Ordinance and Standards; ii) the Streetary does not require a new Building Permit; iii) the Streetary does not require and is not proposing significant modifications; iv) some portion of the Streetary is directly in front of the permittee's food service establishment business; v) the Streetary does not use more than two parking spaces (or the maximum allowable for shared streetaries); and vi) pursuant to SRMC 11.70.080(D), the Director of Public Works has determined that the Streetary 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. This exception only applies to granting exceptions to the "adjacency to storefront" requirements under *SRMC 11.70.050(B) and SRMC 11.70.060(C)* and no other standards.

B. Streetary Setback Criteria

Required Streetary Buffers – Travel Lane Setbacks

SRMC 11.70.060(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.

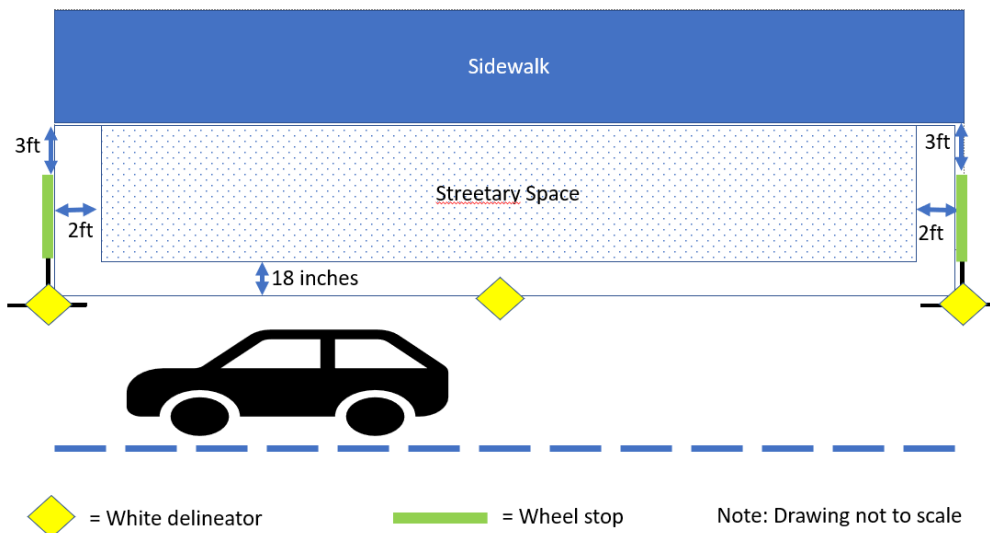
See [Figure 1](#).

Required Streetary Buffers – Side Setbacks

SRMC 11.70.060(E): Side setback. Streetaries shall have a two-foot minimum side setback to each wheel stop located at each end of the parking space.

See [Figure 1](#).

[Figure 1](#): Required Streetary Buffers and Traffic Safety Requirements.



Corner Locations

Streetaries located adjacent to intersection crosswalks shall provide a minimum 30-foot setback from the nearest crosswalk. Storefronts located at corner locations may only have a streetary on one street.

Fronting Driveways

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

C. Other Location Criteria

Utilities

SRMC 11.70.050(D): Streetaries shall not be permitted in parking spaces that would obstruct utility access panels, manhole covers, storm drains, street valves, or any other type of utility assets.

SRMC 11.70.060(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.

ADA-Designated Spaces

SRMC 11.70.050(D): Streetaries shall not be permitted in parking spaces that are ADA designated.

Colored Curb Zones with Restrictions

SRMC 11.70.050(D): Streetaries shall not be permitted in parking spaces that 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.

Bicycle Facilities

SRMC 11.70.050(D): Streetaries shall not be permitted in parking spaces that would obstruct any bicycle facility.

Streetaries cannot obstruct a bicycle lane or path.

Fire and Public Safety Infrastructure

SRMC 11.70.050(D): Streetaries shall not be permitted in parking spaces that would block or obstruct any fire hydrant, fire department sprinkler or standpipe hose, or other public safety infrastructure.

Fire Hydrants

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

Fire Department Connections (FDCs)

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

II. STREETARY DESIGN ELEMENTS

Streetaries generally consist of the following key elements:

A. PLATFORM that allows the streetary to serve as an extension of the sidewalks

B. RAILINGS OR SIDE ENCLOSURES that demarcate the exterior of the streetary from the street and surrounding parking spaces

C. TRAFFIC SAFETY PROTECTIONS to reduce the potential for auto-related damage

D. OVERHEAD STRUCTURES (optional)

E. FURNISHINGS AND FIXTURES

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

A. PLATFORM DESIGN CRITERIA

Materials

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

Maintenance Access

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

Platform Threshold

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

Drainage

Platforms must allow for curbside drainage flow. At a minimum, the existing gutter line must be clear of obstructions along the entire length of the proposed platform and provide a minimum 12-inch wide clear space if the street does not have a concrete gutter. Openings at either end of the streetary may be covered with screens to prevent debris buildup beneath the platform and in the gutter. It is the responsibility of the streetary permittee to clean the cover or screen to prevent any backup of storm water. All streetaries must provide access through the streetary platform or threshold to the gutter adjacent to the curb. The City reserves the right to adjust these requirements depending on the specific location of each streetary in order to maintain proper drainage

Affixing Not Allowed

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

Sub-structure

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

Figure 2: Bison pedestals for streetary sub-structure



ADA Accessibility

SRMC 11.70.100(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.

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

Accessible Platform Surface

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

Dimensions

Accessible entry shall be a minimum of 48 inches wide. Accessible path of travel must connect the sidewalk to the accessible entry, platform surface, wheelchair turning space and wheelchair resting space. Wheelchair turning space shall be 60 inches in diameter and located entirely within the platform or with a twelve-inch maximum overlap on the curb and sidewalk. Wheelchair landing shall be a 36 by 48-inch clear floor area that is permitted to overlap with the Wheelchair Turning Space by 24 inches maximum in any orientation.

B. RAILINGS AND SIDE ENCLOSURES DESIGN CRITERIA

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

- **Stability:** Stable and sturdy enough not to fall over or be pushed over.
- **Edge buffers from the street:** This can take the form of planters, railing, cabling, or some other appropriate enclosure.
- **Openings in rails:** Must prevent passage of 4-inch sphere.
- **Height of railings / side enclosures:** Should not exceed 36 inches from the streetary platform floor to the top of the railing.
- **Traffic safety and visibility:** The enclosure shall not block the view of conflicting movements of traffic, including pedestrian traffic, nor block the view of traffic control devices such as traffic signs, traffic signals, and other traffic warning devices. All railings/enclosures must have retro-reflective reflectors or retro-reflective tape on the corners of the streetary facing the travel lane such that they are visible by vehicle traffic at night.
- Water-filled orange barricades and metal rail side enclosures are not permitted. Any water-filled orange barricades and metal rails that served as traffic protection during the Temporary Outdoor Dining Program prior to adoption of the “Streetary” ordinance must be promptly removed.

C. TRAFFIC SAFETY PROTECTIONS

Wheel Stops

See [Figure 1](#).

SRMC 11.70.060(E): Side setback. Streetaries shall have a two-foot minimum side setback to each wheel stop located at each end of the parking space.

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

streetary. For approved applicants, the Department of Public Works will source and install wheel stops.

Vertical Traffic Delineators, Posts or Bollards

See Figure 1.

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

Travel Lane Clearance

See Figure 1.

SRMC 11.70.060(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.

Congested Arterials and Traffic Safety

The Public Works Director (or designee) may deny any application for a streetary which may cause conflicts or decrease the ability to manage traffic flow for vehicles, busses, bicycles or pedestrians. The determination of the Public Works Director may also be based on parking management and or the occasional use of the parking lane to manage traffic flow.

D. OVERHEAD STRUCTURES (optional)

Overhead structures on streetaries are defined as any wall or structure over 36" in height, including roofs, overhead trellises, tent shade structures, and wind barriers.

Streetaries who wish to have an overhead structure must obtain a building permit. This permit application shall include detailed plans for the overhead structure that have been designed and engineered by a licensed design professional. These detailed plans must ensure the overhead structure can resist wind and seismic loads. Existing Streetaries who have an overhead structure without a building permit are required to submit an application on or before November 30, 2022 in order to continue operation

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

E. FURNISHINGS AND FIXTURES

Wind Protection

All furnishings and fixtures must be designed to be weighted down so they do not become airborne in a wind event. Items may need to be stored inside the business during periods of high winds. Weights used must not create tripping hazards for pedestrians.

Heaters – Additional Building Permit Application May Be Required

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

Umbrellas

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

Electrical connections – Additional Building Permit Application Required

If electrical connections are desired, the streetary must submit a separate Building Permit Application at the same time that they submit their Streetary Encroachment Permit Application. An approved Building Permit is required for any existing or proposed electrical connections. All wiring and electrical cords must be exterior rated, GFCI protected, and UL listed. Cords must not create tripping hazards on the sidewalk. If the cords cross overhead, they must provide a minimum clearance of 10 feet above the sidewalk and the platform of the streetary. The use of adapters is prohibited. Streetaries are not permitted to tap into existing City electrical connections such as twinkle light outlets or streetlight poles.

Generators are not permitted in association with streetaries.

Lighting – Additional Building Permit Application Required

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

Signage

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

III. OPERATIONAL STANDARDS

Security

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

No Outdoor Food Preparation and No Open Flames

SRMC 11.70.100(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.

Alcohol Service

SRMC 11.70.100(C): Alcohol service. Alcohol service shall be permitted subject to the acquisition of all required local and State permits and licenses.

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

No Live Entertainment or Amplified Music Without Permit

SRMC 11.70.100(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.

Noise and Disruptive Behavior

SRMC 11.70.100(D): Noise and disruptive behavior. Permittees shall be responsible for ensuring their patrons minimize noise and disruptive behavior while using their streetary space.

Site Maintenance

SRMC 11.70.100(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.

ADA Compliance

SRMC 11.70.100(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.

See Section II(A) Streetary Design Elements, Platform Design Criteria for more details. Compliance and related liability issues will be the sole responsibility of the Permittee and Streetary operator.

Hours of Operation

SRMC 11.70.100(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:

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.

Inspections

SRMC 11.70.120(A): 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.

Insufficient Usage

SRMC 11.70.100(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.

IV. FEES

SRMC 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.

The fees for the exclusive use of the Streetary are proposed to ensure that the public right-of-way will be enhanced in ways that will facilitate its successful use by private businesses. The current fee schedule is available on the City's Finance Department website. All fees may be reviewed and adjusted from time to time by the City Council through resolution.

Application Fee

All applicants, whether approved or denied, will be charged an application fee for costs that cover city staff time to process and review each application. Application fees will not be refunded.

Annual Encroachment Lease Fee

Prior to permit issuance and each year thereafter, the permittee shall pay an annual encroachment lease fee, calculated based on the number of parking spaces used under the permit. The annual fee will be prorated on a monthly basis for any partial year. Annual fees not paid by the date due will be subject to removal. Annual fees will not be refunded.

Deposit

A Streetary Permittee is required to pay a refundable one-time deposit prior to issuance of a Streetary Encroachment Permit. The City may use all or any portion of the deposit to ensure proper removal of the Streetary and any resulting damage to City property caused by its removal. The balance of the deposit will be refunded upon removal of the Streetary or a change in operator of the Streetary, provided that the Streetary is in full compliance with these Standards.

Other Costs – Wheel Stops and White Traffic Delineators

Pursuant to Section II(C), applicants are responsible for the cost of purchasing and installing wheel stop and white traffic delineators, which will be added as an additional cost at the time of application approval. Payment and installation of wheel stops and white traffic delineators must occur prior to any construction of the Streetary. For approved applicants, the Department of Public Works will source and install wheel stops and white traffic delineators.

Summary of Fees and Due Dates

1. REQUIRED FOR ALL APPLICATIONS: Streetary Permit Application Fee
2. OPTIONAL: Building Permit Application Fee for Optional Overhead Structure, Electrical Connections or Lighting, or Fixed Heat Lamps
3. UPON APPROVAL OF AND PRIOR TO ISSUANCE OR RENEWAL OF STREETARY ENCROACHMENT PERMIT: Annual Encroachment Lease Fee for Each Parking Space
4. UPON APPROVAL OF AND PRIOR TO ISSUANCE OF STREETARY ENCROACHMENT PERMIT: Deposit
5. UPON APPROVAL OF AND PRIOR TO ISSUANCE OF STREETARY ENCROACHMENT PERMIT: Upfront payment for installation of wheel stops and white traffic delineators as required by these Standards

V. INDEMNIFICATION AND INSURANCE

SRMC 11.70.110: 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.

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

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

Insurance requirements related to the Streetary Program may be adjusted by the City as needed at the City's sole discretion. Insurance requirements will be further detailed in the Streetary Encroachment Permit.

VI. ANNUAL STREETARY ENCROACHMENT PERMIT REQUIREMENTS AND APPLICATION PROCESS

Permit Required

SRMC 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.

Application Process

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

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

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

1. Streetary Encroachment Permit Form (required for all applicants)

2. Building Permit Application Form (Optional: this is required if streetary will have a structure above 6 feet in height and/or electrical or lighting)

All streetaries operating, or applying to operate, in parking spaces within the public right-of-way must obtain a Streetary Encroachment Permit. The Streetary Encroachment Permit Application must be submitted and approved prior to the construction of any new streetary or the modification of any existing Streetary. In addition to the two application forms, the following submittals are required with an application to construct a new streetary:

- a. Plan sets are required for both custom design streetaries and modular streetaries. For custom designed streetaries without an overhead structure, it is recommended that plans are prepared by a design professional, such as an architect or engineer. Applicants requesting an overhead structure are required to submit plans that have been designed and engineered by a licensed design professional. The submitted plans should show the proposed layout of the streetary including:
 - i. The streetary location (business frontage, site address, parking space number, etc.)
 - ii. Dimensions of parking stalls, streetary structure including platform, railings, overhead structure (if applicable), stormwater access, and traffic travel lanes in immediate area and in the proposed streetary.
 - iii. Traffic protection measures and dimensions of the setbacks from adjacent parking spaces and adjacent traffic lane.
 - iv. Location of any adjacent public utilities in the street including curb drains, manhole covers, water shut-off valves, sidewalk utility boxes, streetlight poles, parking meters, gutter drains, fire hydrants, parking meters, etc.
 - v. Plans must demonstrate ADA accessibility and show dimensions of required clearances
- b. Materials palette – Use color photo samples to demonstrate
 - i. Materials and plants to be used on platform
 - ii. Railing materials
 - iii. Platform materials
 - iv. Overhead structure materials (if applicable)
- c. A valid City of San Rafael Business Tax Certificate, sometimes referred to as a business license.
- d. Evidence of current insurance coverage including a Certificate of Liability Insurance and Endorsements

VII. MAINTENANCE

SRMC 11.70.100(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.

Utility Maintenance and Public Safety Emergencies

Because streetaries may sit atop buried utilities, there may be instances where your streetary will need to be temporarily removed to access a utility beneath it. In the event of necessary utility maintenance or the unlikely event of a utility failure such as a gas leak or water main break that threatens public safety, the City or utility owner may remove streetaries with little or no notice. As noted in SRMC Section 11.70.060(F), Permittees are solely responsible for the cost of removing, storing, repairing, and re-installing their streetary in order for such maintenance or emergencies to be addressed without delay or hindrance. The City may use the funds from the Permittee's Deposit to remove a streetary in this case, if the Permittee fails to cooperate with removal.

Temporary Public Works Projects, Public Maintenance, and Emergency Repairs

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

VIII. ENFORCEMENT, TERMINATION OF PERMIT AND STREETARY REMOVAL

Enforcement by City

SRMC 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 their 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.

Termination by Permittee

The Permittee may decide at any point in time that they no longer wish to operate a streetary. In this case, the Permittee is responsible for notifying the City in writing to streetary@cityofsanrafael.org on the earliest of the following:

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

Within 30 days of providing written notice to the City or upon vacating the connected commercial property, whichever occurs first, the Permittee is responsible for removing the streetary and cleaning and restoring the parking space to its previous condition to the satisfaction of the City and at the streetary owner's own expense. If the Permittee does not comply with the City's requirements for removal, cleaning and restoration, the City retains the right to use the Deposit for such removal, cleaning, and restoration costs, and the balance of the deposit, if any, will be refunded.

Non-Transferrable

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. A streetary permit is non-transferable.

Takeover by Landlord

If a permittee terminates their streetary encroachment permit and leaves their streetary in place or otherwise abandons the streetary, the landlord or property owner of the permittee's adjacent business location may elect to take over the existing Streetary Encroachment Permit for a maximum period of 6 months or the period of time remaining on the annual Permit, whichever is less, provided that the Streetary is in full compliance with these Standards. Thereafter, the landlord or property owner taking over the Streetary must submit for and obtain a new Streetary Encroachment Permit, and pay all related fees (application and annual) and refundable deposit.

SRMC 11.70.080(D): Deviations from adopted standards for existing streetaries. For existing streetaries operating as of the effective date of this ordinance, where the director determines that the streetary will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or injurious

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to property and improvements in the neighborhood, the director may grant exceptions or minor modifications to the standards set forth in this chapter.

FOR MORE INFORMATION

For questions or additional information regarding these Standards, the Streetary Permit Application, or related optional Building Permit Applications, please contact Department of Public Works at streetary@cityofsanrafael.org.