

Article 1: Separately Regulated Use Regulations

Division 6: Commercial Services Use Category--Separately Regulated Uses

(Added 12-9-1997 by O-18451 N.S.)

§129.0710 How to Apply for a Public Right-of-Way Permit

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* is required prior to issuance of a Public Right-of-Way Permit for the following:

- (a) through (c) [No change in text.]
- (d) Notwithstanding Sections 129.0710(a)-(c), a *development permit* is not required prior to issuance of a Public Right-of-Way Permit for *placemaking* or a recreational amenity in the *public right-of-way* subject to the following regulations. For purposes of Section 129.0710, a recreational amenity is defined as any improvement that provides recreational value to residents or visitors and that enhances the pedestrian or bicycle travel experience.

(1) through (8) [No change in text.]

- (9) If a *placemaking* project or recreational amenity is located within 15 feet of a permitted eating and drinking establishment ~~and is located on a City street with a posted speed limit no greater than 30 miles per hour, its use as a Streetary in accordance with Section 141.0621(b) shall be permitted.~~ the establishment may conduct outdoor dining operations within the *placemaking* project or recreational amenity. The hours of operation of the outdoor operations shall be limited to the hours that the *kitchen* facilities of the associated eating and drinking establishment are open for meal ordering. Alcohol, food, or beverages shall not be served or permitted within the *placemaking* or recreational amenity area after 10:00 p.m. Sunday through Thursday, and after 11:00 p.m. Friday through Saturday.

(10) & (11) [No change in text.]

§129.0715 Encroachment Maintenance and Removal Agreement

- (a) An Encroachment Maintenance and Removal Agreement is required for any privately-owned and/or privately-maintained *encroachment* located in the

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public right-of-way or in a *public service easement* subject to the following:

- (1) [No change in text.]
 - (2) The *record owner* or *permit holder*, as applicable, shall agree to indemnify the City with an indemnification agreement satisfactory to the City Manager and City Attorney. For streetaries and social curbs permitted in accordance with Section 141.0621, the indemnification shall include, but not be limited to, any claims, damages, or injuries that occur to or within the streetary or social curb.
 - (3) The *record owner* or *permit holder*, as applicable, shall agree to and shall remove or relocate the *encroachment* to the satisfaction of the City Engineer within 30 days after notice by the City Engineer, or during rain events, to the satisfaction of the City Engineer, the applicant may be required to remove the Streetary at the applicant's expense to prevent flooding, or the City Engineer may cause such work to be done, and the costs thereof shall be a lien upon said land, or the *record owner* or *permit holder*, as applicable, shall agree to an equivalent to the requirement for removal as determined by the City Engineer, except that Social Curbs permitted in accordance with Section 141.0621 shall not be required to be removed by the record owner or permit holder.
 - (4) & (5) [No change in text.]
 - (6) Except as provided in Section 129.0715(a)(7), the *record owner* or *permit holder*, as applicable, shall maintain a policy of at least \$1 million liability insurance, satisfactory to the City Engineer, to protect the City from any potential claims which may arise from the *encroachment*.
 - (7) & (11) [No change in text.]
- (b) ~~The City may require a *record owner* or *permit holder*, as applicable, to record~~ The Encroachment Maintenance and Removal Agreement shall be recorded in the Office of the County Recorder.

§141.0621 Sidewalk Cafes/Streetaries/Social Curbs

~~Sidewalk cafes are outdoor dining spaces located in the *public right-of-way* that are associated with adjacent eating and drinking establishments. Sidewalk cafes are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. It is not the intent~~

~~of this section to regulate outdoor eating and drinking establishment areas that are located on private property.~~

The Sidewalk Cafes/Streetaries/Social Curbs regulations establish requirements for outdoor dining and other uses within the *public right-of-way*. For the purposes of this section, Sidewalk cafes are defined as outdoor dining spaces located within the sidewalk area of the *public right-of-way* that are associated with adjacent eating and drinking establishments; Streetaries are defined as outdoor spaces created in street space formerly dedicated to parking spaces that serves as an extension of a restaurant or other establishment that sells food and drink, and Social Curbs are defined as the permanent extension of the curb into the parking lane to facilitate activation of the *public right-of-way* through landscaped areas, seating areas, farmers market, public artwork and outdoor dining. Sidewalk cafes/Streetaries/Social Curbs are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. It is not the intent of this section to regulate outdoor eating and drinking establishment areas that are located on private property.

(a) Limited Use Regulations for Sidewalk Cafes

(1) Design requirements

(A) A sidewalk cafe shall be located within the sidewalk area adjacent to a street-level eating and drinking establishment.

(B) through (J) [No change in text.]

(K) Lighting fixtures may be permanently affixed to the front of the associated eating and drinking establishment but shall not protrude into the pedestrian path.

(L) The name and type of establishment may be placed on umbrellas or on the valance of an awning with an overhang not lower than 84 inches from the finished grade of the sidewalk. Other *signs* are not permitted on a sidewalk cafe.

(M) [No change in text.]

(2) & (3) [No change in text.]

b(4) A Process Two Neighborhood Use Permit may be requested in accordance with Section 126.0203 to deviate from the requirements in Section 141.0621(a) as follows:

~~(1)~~(A) The applicant shall identify any requirement in Section 141.0621(a) where a deviation is being requested and shall specify why the deviation is needed.

~~(2)~~(B) The decision maker will evaluate the request in accordance with the adopted land use plan and Land Development Manual to determine if a sidewalk cafe with the proposed deviation is a suitable use for the proposed site and will not infringe on use of the public right-of-way by pedestrians. In making the determination, the decision maker shall consider the following:

~~(A)~~(i) The width of the sidewalk;

~~(B)~~(ii) The design and relationship of the sidewalk cafe to other existing or planned uses in the vicinity;

~~(C)~~(iii) The amount of pedestrian use and the impact of the sidewalk cafe's location on pedestrian activity; and

~~(D)~~(iv) The sidewalk cafe's ability to fit the character of the area, create an outdoor pedestrian plaza, intensify pedestrian activity, and make the street activity more attractive.

(b) Limited Use Regulations for Streetaries

(1) Location Requirements:

(A) Streetaries shall be permitted at the following locations:

(i) Within the curb lane on streets where on-street metered or

unmetered parking spaces exist.

- (ii) At least 20 feet from an intersection or street corner.
- (iii) Along curbs painted yellow, or green, or non-painted curbs or motorcycle parking areas.

(B) Streetaries shall not be permitted at the following locations:

- (i) Along a street with a speed limit greater than 30 mph.
- (ii) Along a street with a street classification greater than a two-lane collector.
- (iii) Within the visibility area of an intersection or driveway as determined by the City Engineer.
- (v) Along a curb painted red, white, or blue.
- (vi) Within or adjacent to an alley
- (vi) Along a Metropolitan Transit System (MTS) stop or a bus lane.
- (vii) Within an existing bicycle lane or within a proposed bicycle facility project identified in any comprehensive bicycle plan, adopted *land use plan*, or identified in the Capital Improvement Program.
- (viii) Within a 5-foot radius from storm drain inlets or cleanouts.
- (ix) Over utility access panels, manhole covers, handholes, transformers, water meters or water valves.

(2) Permit Requirements

(A) Prior to installation of any furniture or improvements in the *public right-of-way* and prior to operation of a Streetary, the *applicant* shall obtain a Public Right-of-Way Permit in accordance with Section 129.0710(d) and an Encroachment Maintenance and Removal Agreement in accordance with Section 129.0715. Violations of a Public Right-of-Way Permit shall be subject to the permit revocation procedures set forth in Chapter 12, Article 1, Division 3.

- (B) The Public Right-of-Way Permit for Streetaries shall be limited to a maximum two-year period, after which it may be renewed in accordance with all applicable regulations.
- (C) Removal of parking, with the exception of ADA parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for a Streetary.
- (D) The dimensions of a Streetary shall be delineated on a site plan and documented in the associated Public Right-of-Way Permit.
- (E) Prior to the issuance of a Public Right-of-Way Permit for a Streetary, the *applicant* shall pay a fee for the use of and operation within the *public right-of-way*, as adopted by San Diego City Council Resolution.
- (F) Evidence of general liability insurance as required by Risk Management naming the City of San Diego as additional insured is required prior to permit issuance.
- (G) Streetaries shall be designed in accordance with the Spaces as Places Design Manual.
- (H) Alcohol, food, or beverages shall not be served or permitted within the Streetary before 7:00 a.m. and after 10:00 p.m. Sunday through Thursday, and before 7:00 a.m. and after 11:00 p.m. Friday through Saturday. No entertainment or amplified music shall be permitted within a Streetary before 8:00 a.m. and after 9:00 p.m. Sunday through Thursday, and before 9:00 a.m. and after 10:00 p.m. Friday through Saturday. For purposes of this subsection, Friday through Saturday shall include the day prior to a City Holiday.
- (I) For Streetaries located within 150 feet of an adjacent residential use, alcohol, food or beverages shall not be served or permitted within the Streetary before 7:00 a.m. and after 9:00 p.m. Sunday through Thursday, and before 7:00 a.m. and after 10:00 p.m. Friday through Saturday.
- (J) A Streetary shall comply with all State of California Department of Alcoholic Beverage Control license requirements, as applicable.
- (K) Smoking and vaping shall not be permitted within the Streetary. For purposes of this section, the terms *smoke*, *smoking*, *vape*, and

vaping have the same meanings as set forth in San Diego Municipal Code section 43.1001.

- (L) Outdoor cooking and preparation of food within the Streetary is prohibited.
- (M) Noise levels within the Streetary shall comply with the sound level limits of the adjacent use in accordance with Chapter 5, Article 9.5, Division 4.
- (N) For Streetaries located within the Gaslamp Quarter Planned District, the Gaslamp Quarter Planned District Design Guidelines shall apply.

(4) Design Requirements

Streetaries shall be designed in accordance with the Spaces as Places Design Manual and at a minimum meet the following regulations to the satisfaction of the City Engineer:

- (A) Streetaries shall be designed as an extension of the sidewalk with at least one minimum 48 inches wide entry for every 10 feet of Streetary along the curbside edge.
- (B) The width of the Streetary shall not extend within 2 feet of the edge of the vehicle travel lane.
- (C) A Streetary shall provide a *setback* of at least 4 feet from adjacent automobile parking spaces.
- (D) The deck of the Streetary platform shall be flush with the sidewalk.
- (E) Bolting into the *street* or penetrating into the surface of the road shall not be permitted.
- (F) A minimum 36 inches wide emergency access gap with horizontal and vertical clearance shall be required for every 20 feet of the Streetary or adjacent Streetaries or other structures in the parking lane.
- (G) Clearance from fire hydrants to the satisfaction of the Fire department shall be required.

(H) Drainage

- (i) Streetaries shall not impede the flow of curbside drainage.
- (ii) An 8 inch by 6-inch minimum clear gutter space shall be provided along the entire length of the Streetary adjacent to the curb.
- (iii) The applicant shall ensure that the drainage area between the curb and the platform remains clear of debris and proper drainage occurs at all times.

(I) A 42" high railing shall be placed at the edge of the Streetary to serve as a barrier from vehicular traffic.

(J) Umbrellas with an overhang of a minimum of 84 inches from the finished grade of the sidewalk may be used in conjunction with a Streetary, but no permanent roof or shelter is permitted over the Streetary.

(K) Electrical lighting may only be provided if it is solar powered, or if the source of the electrical power is obtained by lines that are not located on the ground, and are located in a manner that does not impede the flow of pedestrian access within the public right-of-way.

(L) Propane heaters shall not be placed under umbrellas and open flame devices shall not be permitted.

(M) The placement of name and type of establishment on umbrellas shall be permitted. Other signs shall not be permitted on a Streetary.

(5) Accessibility

(A) Accessible Path of Travel

- (i) An accessible path of travel shall connect the sidewalk to the accessible entry, deck surface, wheelchair turning space and wheelchair resting space.
- (ii) The accessible path shall be a minimum of 48 inches wide on the sidewalk and shall not pass over tree wells.

- (iii) The accessible path of travel shall be free of obstruction and protruding objects.

(B) Accessible Deck Surface

- (i) The accessible path on the deck surface shall be a minimum of 44 inches wide.
- (ii) The portion of the Streetary deck connected by the accessible path of travel to the wheelchair turning space and wheelchair resting space shall be level.
- (iii) The accessible deck surface maximum cross slope (perpendicular to the sidewalk or curb) and the maximum running slope (parallel to the curb) shall not exceed 2 percent.
- (iv) The surface of the accessible route, clear floor spaces, and turning spaces shall be firm stable and slip resistant.
- (v) Openings in floor or deck surface shall not be greater than 6 inches. Elongated openings shall be placed so that the long dimension is perpendicular to the direction of travel.

- (C) A clear area of 60 inches in diameter located entirely within the Streetary shall be provided for wheelchair turning with a maximum overlap of 12 inches on the curb and sidewalk.

- (D) A clear floor area of 36 inches by 48 inches shall be provided for wheelchair resting space with a maximum overlap of 24 inches with the wheelchair turning space in any orientation.

- (E) The wheelchair resting space shall provide shoulder-to-shoulder alignment adjacent to one side of the fixed seat to serve as wheelchair user companion seating.

- (F) A minimum head height clearance of 84 inches from the finished grade of the Streetary is required at all times.

(G) Equivalent Facilities

- (i) Where tables, counters, or drink rails are provided, at least one of each feature shall be wheelchair accessible.

- (ii) The top surface height of wheelchair accessible tables, counters and or drink rails shall be 28 inches to 34 inches above the deck surface.
- (iii) Wheelchair accessible tables and counters shall be approachable from the front and provide an unobstructed knee clearance that is at least 27 inches high, 30 inches wide, and 19 inches deep.
- (iv) When movable tables are provided in lieu of fixed tables, at least one of the movable tables shall be accessible.
- (v) Where drink rails are provided, a 60-inch-long portion of a drink rail shall have 36 inch wide and level space adjacent to it for a side-approach by a wheelchair user.

(H) Terraced or Multi-Level Streetaries

- (i) Streetaries on *streets* with grades that exceed 5 percent, a terraced Streetary with two or more decks may be constructed.
- (ii) At least one of the terraces shall be wheelchair accessible and provide equivalent seating, tables, and countertop facilities to those found in other terraces.
- (iii) The wheelchair accessible terrace shall provide a wheelchair accessible entry from the sidewalk.
- (iv) The wheelchair accessible entry shall include a *structure* on the sidewalk within the sidewalk furnishing zone that provides transition between the sidewalk and Streetary deck.
- (v) Passage between terrace levels shall be provided with a ramp with a running slope not to exceed 5%.
- (vi) Any step or stair shall contain a warning strip at the nose of the step and handrails in accordance with the California Building Code.

(6) Deviation Process

A deviation from the requirements in Section 141.0621(b) may be

permitted with a Neighborhood Use Permit decided in accordance with Process Two, as follows:

(A) The applicant shall identify any requirement in Section 141.0621(b) where a deviation is being requested and shall specify why the deviation is needed.

(B) Deviations related to the following shall not be granted:

(i) Addition of an overhead structure;

(ii) Storm Water requirements;

(iii) Hours of operation;

(iv) Engineering Standards; and

(v) ADA requirements

(c) Limited Use Regulations for Social Curbs

(1) Location Requirements:

(A) Social curbs shall be permitted along the curbside on streets where metered or unmetered parking exists.

(B) Social curbs shall meet all locational requirements to the satisfaction of the City Engineer to ensure public health and safety.

(2) The following uses shall be permitted within a Social Curb:

(A) Recreational amenities in accordance with Section 129.0710(d).

(B) Artwork in accordance with Section 26.0701.

(C) Outdoor Dining in accordance with Section 141.0621(c)(6).

(E) Farmers Markets in accordance with Section 141.0503.

(F) Other uses approved through a deviation in accordance with Section 141.0621(c)(7).

- (3) Permit Requirements:
- (A) Prior to installation of any furniture or improvements in the public right-of-way and prior to operation of a Social Curb, the applicant shall obtain a Public Right-of-Way Permit in accordance with Section 129.0710(d), an Encroachment Maintenance and Removal Agreement in accordance with Section 129.0715 to the satisfaction of the City Engineer. Violations of a Public Right-of-Way Permit shall be subject to the permit revocation procedures set forth in Chapter 12, Article 1, Division 3.
 - (B) Removal of parking with the exception of ADA spaces shall not be a basis of denial of the permit.
 - (C) For exclusive use of the Social Curb for outdoor dining, the applicant shall pay a fee towards the Exclusive Use Fund as established by San Diego City Council Resolution No. R - at the time of issuance of the Public Right-of-Way Permit.
 - (D) Evidence of general liability insurance as required by Risk Management naming the City of San Diego as additional insured is required prior to permit issuance.
 - (E) Social Curbs shall be designed in accordance with the Spaces as Places Design Manual, Street Design Manual, and all applicable engineering standards.
 - (G) Alcohol, food, or beverages shall not be served or permitted within the Social Curb before 7:00 a.m. and after 10:00 p.m. Sunday through Thursday, before 7:00 a.m. and after 11:00 p.m. Friday through Saturday. No entertainment or amplified music shall be permitted within a Social Curb before 8:00 a.m. and after 9:00 p.m. Sunday through Thursday, and before 9:00 a.m. and after 10:00 p.m. Friday through Saturday. For purposes of this subsection, Friday through Saturday shall include the day prior to a City Holiday.
 - (H) For Social Curbs located within 150 feet of an adjacent residential use, alcohol, food or beverages shall not be served or permitted within the Social Curb before 7:00 a.m. and after 9:00 p.m. Sunday through Thursday, and before 7:00 a.m. and after 10:00 p.m. Friday through Saturday.

- (F) All programming along Social Curbs shall be in accordance with the Special Events Ordinance, Chapter 2, Article 2, Division 40.
- (G) Smoking and vaping shall not be permitted within the Social Curb. For purposes of this section, the terms *smoke*, *smoking*, *vape*, and *vaping* have the same meanings as in San Diego Municipal Code section 43.1001.
- (H) Social Curbs shall comply with all State of California Department of Alcoholic Beverage Control license requirements, as applicable.
- (I) Noise levels within the Social Curb shall comply with the sound level limits of the adjacent use in accordance with Chapter 5, Article 9.5, Division 4.
- (J) For Social Curbs located within the Gaslamp Quarter Planned District, the Gaslamp Quarter Planned District Design Guidelines shall apply.

(4) Design Requirements:

Social Curbs shall be designed in accordance with the Spaces as Places Design Manual and at a minimum meet the following regulations to the satisfaction of the City Engineer:

- (A) Permanent expansion of the curb line into the parking lane starting at the corner or in the middle of the *street* shall be designed to the satisfaction of the City Engineer.
- (B) The design and placement of street furniture, trees, and plantings on a Social Curb shall not impede pedestrian flow, or be placed within 10 feet from an intersection to avoid interfering with visibility area, emergency operations or sight lines to the satisfaction of the City Engineer.
- (L) Propane Heaters shall not be placed under umbrellas and open flame devices shall not be permitted.
- (M) The placement of name and type of establishment on umbrellas shall be permitted. Other *signs* shall not be permitted on a

Social Curb.

(N) Social Curbs shall be designed in accordance with current Storm Water standards.

(5) Social Curbs shall comply with all State and Federal ADA requirements.

(6) For exclusive use of a section of the Social Curb for Outdoor Dining, fixed or moveable furniture may be placed closer to the adjacent restaurant or closer to the adjacent travel lane within the Social Curb so long as a minimum of a 5 foot clear path of travel for pedestrians is maintained at all times.

(7) Deviation Process

A deviation from the requirements in Section 141.0621(c) may be permitted with a Neighborhood Use Permit decided in accordance with Process Two, as follows:

(A) The applicant shall identify any requirement in Section 141.0621(c) where a deviation is being requested and shall specify why the deviation is needed.

(B) Deviations related to the following shall not be granted:

(i) Addition of an overhead structure;

(ii) Storm Water requirements;

(iii) Hours of operation;

(iv) Engineering Standards; and

(v) ADA requirements

§131.0222 Use Regulations Table for Open Space Zones

The uses allowed in the open space zones are shown in Table 131-02B.

Legend for Table 131-02B

[No change in text.]

Table 131-02B
Use Regulations Table for Open Space Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones				
	1st & 2nd >>	OP-	OC-	OR ⁽¹⁾ -	OF ⁽¹⁾ -	
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1	2
Open Space through Separately Regulated Institutional Uses – Placemaking on Private Property [No change in text.]		[No change in text.]				
<u>Outdoor Dining on Private Property</u>		=		=	=	=
Separately Regulated Institutional Uses – Satellite Antennas through Separately Regulated Commercial Service Uses – Recycling Facilities [No change in text.]						
<u>Sidewalk Cafes / Streetaries / Social Curbs</u>		[No change in text.]				
Sports Arenas & Stadiums through Signs [No change in text.]		[No change in text.]				

§131.0322 Use Regulations Table for Agricultural Zones

The uses allowed in the agricultural zones are shown in Table 131-03B.

Legend for Table 131-03B

[No change in text.]

Table 131-03B
Use Regulations Table for Agricultural Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones	
	1st & 2nd >>	AG	AR

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	3rd >>	1-	1-
	4th >>	1	2
Open Space through Separately Regulated Institutional Uses – Placemaking on Private Property [No change in text.]		[No change in text.]	
<u>Outdoor Dining on Private Property</u>		=	=
Separately Regulated Institutional Uses – Satellite Antennas through Separately Regulated Commercial Service Uses – Recycling Facilities [No change in text.]		[No change in text.]	
Sidewalk Cafes / <u>Streetaries</u> / <u>Social Curbs</u>		[No change in text.]	
Sports Arenas & Stadiums through Signs [No change in text.]		[No change in text.]	

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Legend for Table 131-04B

[No change in text.]

**Table 131-04B
Use Regulations Table for Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																				
	1st & 2nd >>	RE-	RS-												RX-		RT-					
	3rd >>	1-	1-												1-	1-						
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4	5
Open Space through Separately Regulated Institutional Uses – Placemaking on Private Property [No change in text.]		[No change in text.]																				

<u>Outdoor Dining on Private Property</u>	=	=	=	=
Separately Regulated Institutional Uses – <i>Satellite Antennas</i> through Separately Regulated Commercial Service Uses – Recycling Facilities [No change in text.]	[No change in text.]			
Sidewalk Cafes / <u>Streetaries</u> / <u>Social Curbs</u>				
Sports Arenas & Stadiums through Signs [No change in text.]	[No change in text.]			

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1st & 2nd >>	RM-											
	3rd >>	1-		2-		3-			4-		5-		
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12
Open Space through Separately Regulated Institutional Uses – <i>Placemaking</i> on Private Property [No change in text.]	[No change in text.]												
<u>Outdoor Dining on Private Property</u>	=	=	=	=	=	=	=	=	=	=	=	=	=
Separately Regulated Institutional Uses – <i>Satellite Antennas</i> through Separately Regulated Commercial Service Uses – Recycling Facilities [No change in text.]	[No change in text.]												
Sidewalk Cafes / <u>Streetaries</u> / <u>Social Curbs</u>													
Sports Arenas & Stadiums through Signs [No change in text.]	[No change in text.]												

§131.0522 Use Regulations Table for Commercial Zones

The uses allowed in the commercial zones are shown in Table 131-05B.

Legend for Table 131-05B

[No change in text.]

Table 131-05B
Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																
	1st & 2nd >>	CN(1)-					CR-		CO-					CV-		CP-		
	3rd >>	1-					1-	2-	1-	2-	3-	1-	1-					
	4th >>	1	2	3	4	5	6	1	1	1	2	1	2	1	2	3	1	2
Open Space through Separately Regulated Institutional Uses – Placemaking on Private Property [No change in text.]	[No change in text.]																	
<u>Outdoor Dining on Private Property</u>	<u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u>																	
Separately Regulated Institutional Uses – Satellite Antennas through Separately Regulated Commercial Service Uses – Recycling Facilities [No change in text.]	[No change in text.]																	
<u>Sidewalk Cafes / Streetaries / Social Curbs</u>																		
Sports Arenas & Stadiums through Signs [No change in text.]	[No change in text.]																	

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																								
	1st & 2nd >>	CC-																								
	3rd >>	1-				2-				3-				4-				5-								
	4th >>	1	2	3	1	2	3	4	5	4	5	6	7	8	9	1	2	3	4	5	6	1	2	3	4	5
Open Space through Separately Regulated Institutional Uses – Placemaking on Private Property [No change in text.]	[No change in text.]																									
<u>Outdoor Dining on Private Property</u>	<u> </u> <u> </u> <u> </u> <u> </u> <u> </u>																									
Separately Regulated Institutional Uses – Satellite Antennas through Separately Regulated Commercial Service Uses – Recycling Facilities [No change in text.]	[No change in text.]																									
<u>Sidewalk Cafes/ Streetaries / Social Curbs</u>																										
Sports Arenas & Stadiums through Signs [No change in text.]	[No change in text.]																									

§131.0622 Use Regulations Table for Industrial Zones

The uses allowed in the industrial zones are shown in Table 131-06B.

Legend for Table 131-06B

[No change in text.]

**Table 131-06B
Use Regulations Table for Industrial Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	IP-			IL-			IH-		IS-	IBT-
	3rd >>	1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>	1	1	1	1	1	1	1	1	1	1
Open Space through Separately Regulated Institutional Uses – Placemaking on Private Property [No change in text.]	[No change in text.]										
<u>Outdoor Dining on Private Property</u>	=	<u>L</u>	=	<u>L</u>	<u>L</u>	<u>L</u>	=	<u>L</u>	<u>L</u>	<u>L</u>	
Separately Regulated Institutional Uses – Satellite Antennas through Separately Regulated Commercial Service Uses – Recycling Facilities [No change in text.]	[No change in text.]										
<u>Sidewalk Cafes / Streetaries / Social Curbs</u>	[No change in text.]										
Sports Arenas & Stadiums through Signs [No change in text.]	[No change in text.]										

§131.0707 Use Regulations Table for Mixed-Use Zones

The uses allowed in the mixed-use zones are shown in Table 131-07A.

Legend for Table 131-07A

[No change in text.]

**Table 131-07A
Use Regulations Table for Mixed-Use Zones**

Use Categories/Subcategories	Zone Designator	Zones					
		[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st >>	RMX			EMX
	2nd >>	1	2	3	1	2	3
Open Space through Separately Regulated Institutional Uses – Placemaking on Private Property [No change in text.]		[No change in text.]					
<u>Outdoor Dining on Private Property</u>		<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
Separately Regulated Institutional Uses – Satellite Antennas through Separately Regulated Commercial Service Uses – Recycling Facilities [No change in text.]		[No change in text.]					
Sidewalk Cafes / <u>Streetaries</u> / <u>Social Curbs</u>		[No change in text.]					
Sports Arenas & Stadiums through Signs [No change in text.]		[No change in text.]					

§141.0628 Outdoor Dining on Private Property

The permanent use of a private property for outdoor dining is permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations:

(a) Permit Requirements:

- (1) Written permission from the record owner of the premises shall be required.
- (2) A Building Permit shall be obtained in accordance with Chapter 12, Article 9, Division 2.
- (3) The Building Permit permit holder shall be responsible for maintaining the outdoor dining area. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the party responsible for the project in a location visible from the public right-of-way, keeping the project area free of litter, and preventing litter attributable to the project from occurring on adjacent properties, in alleys, or within the public

right-of-way.

- (4) The use of an alley for the purposes of outdoor dining shall not be permitted.
- (5) Removal of off-street parking spaces on a premises where any portion of the premises is located within a transit priority area, with the exception of ADA spaces, shall not be a basis of denial of the permit.
- (6) The hours of operation of the outdoor operations shall be limited to the hours that the kitchen facilities of the associated eating and drinking establishment are open for meal ordering. Alcohol, food, or beverages shall not be served or permitted within the outdoor dining area before 7:00 a.m. and after 10:00 p.m. Sunday through Thursday, and before 7:00 a.m. and after 11:00 p.m. Friday through Saturday. No entertainment or amplified music shall be permitted within the outdoor dining area before 8:00 a.m. and after 9:00 p.m. Sunday through Thursday, and before 9:00 a.m. and after 10:00 p.m. Friday through Saturday. For purposes of this subsection, Friday through Saturday shall include the day prior to a City Holiday.
- (7) For outdoor dining located within 150 feet of an adjacent residential use, alcohol, food or beverages shall not be served or permitted within the outdoor dining area before 7:00 a.m. and after 9:00 p.m. Sunday through Thursday, before 7:00 a.m. and after 10:00 p.m. Friday through Saturday.
- (8) Noise levels within the outdoor dining area shall comply with the sound level limits of the adjacent use in accordance with Chapter 5, Article 9.5, Division 4.

(b) Design Requirements:

- (1) Outdoor Dining on private property shall be delineated by a barrier from the off-street parking spaces by a railing, fence, or a combination of railing and fence, and planter boxes that are at least 3 feet in height . Solid walls are not permitted.
 - (A) The barrier may be either permanently installed or moveable. If it is moveable, it shall be affixed to a sidewalk while the eating and drinking establishment is open for business.

- (B) Awnings or umbrellas may be used in conjunction with an area for eating and drinking but shall not be used as a permanent roof or shelter over the area for eating and drinking.
- (2) Outdoor Dining on Private Property shall be designed and operated so that it may be used by people of all abilities by complying with all of the following:
 - (A) The surface of the Outdoor Dining area shall be level and have a running slope and a cross slope that do not exceed 2 percent (1 unit vertical in 48 units horizontal).
 - (B) The Outdoor Dining area shall not be located on a raised platform or in a sunken area, unless an accessible ramp is provided in accordance with the California Building Code, or the Americans with Disabilities Act, whichever provides greater accessibility.
 - (C) At least one wheelchair accessible seating space shall be provided for every 20 seats, or portion thereof.
 - (D) When multiple wheelchair accessible seating spaces are provided, they shall be distributed and integrated within the Outdoor Dining area.
 - (E) Wheelchair accessible seating spaces shall have a minimum unobstructed maneuverability dimension of 30 inches in width by 48 inches in depth.
 - (F) Access to designated wheelchair seating spaces shall be provided through an accessible path with not less than 36 inches unobstructed width.
- (3) Base Zone regulations for setbacks and minimum lot coverage shall not apply, except that outdoor dining located within 150 feet of a residential use shall comply with the applicable setbacks for the zone.

§141.0629 Promenade

For the purposes of this section, a Promenade is defined as the partial or complete street closure to vehicular traffic to facilitate active transportation uses such as walking, biking, recreation, outdoor dining, and enjoyable public interaction. Promenades enhance pedestrian safety, encourage non-motorized transportation and foster neighborhood interaction and outdoor activities, increasing the likelihood that more people will travel by foot or bicycle.

(a) The following uses and other similar uses shall be permitted within the Promenade:

(A) Recreational amenities in accordance with Section 129.0710(d).

(B) ~~Artwork in accordance with Section 26.0701.~~

(C) Outdoor Dining in accordance with Section 141.0621.

(E) Farmers Markets in accordance with Section 141.0503.

(b) Permit Requirements:

(1) The creation of a Promenade may be initiated by any agency or other applicant.

(A) For a Promenade initiated by an agency, prior to the installation of any furniture or improvements in the public right-of-way and prior to operation of a Promenade, the applicant shall obtain a Public Right-of-Way Permit in accordance with Section 129.0710(d), and a plan for maintenance shall be provided to the satisfaction of the Transportation Director.

(B) For a Promenade initiated by a private applicant, prior to the installation of any furniture or improvements in the public right-of-way and prior to operation of a Promenade, the applicant shall obtain a Public Right-of-Way Permit in accordance with Section 129.0710(d), an Encroachment Maintenance and Removal Agreement in accordance with Section 129.0715. Violations of a Public Right-of-Way Permit shall be subject to the permit revocation procedures set forth in Chapter 12, Article 1, Division 3.

(C) For a Promenade, where the public right-of-way lies within one ownership for the entirety of the Promenade and does not continue through that ownership or touch the property of another owner, prior to installation of any furniture or improvements in the public right-of-way and prior to operation of a Promenade, the applicant shall obtain a public right-of-way vacation in accordance with P Chapter 12, Article 5, Division 9.

(2) Removal of parking with the exception of ADA spaces shall not be a basis of

denial of the permit.

- (3) Prior to the issuance of a Public Right-of-Way Permit for exclusive use of a Promenade for Outdoor Dining, the applicant shall pay a fee for the use of and operation within the public right-of-way as established by San Diego City Council Resolution .
- (4) Access to emergency service vehicles shall be provided at all times to ensure public health and safety.
- (5) All programming of activities within the Promenade shall be in accordance with the Special Events Ordinance, Chapter 2, Article 2, Division 40.
- (6) Promenades shall be designed in accordance with the Spaces as Places Design Manual.
- (7) Smoking and vaping shall not be permitted within the Promenade. For purposes of this section, the terms smoke, smoking, vape, and vaping have the same meanings as set forth in San Diego Municipal Code section 43.1001.
- (8) A Promenade shall comply with all State of California Department of Alcoholic Beverage Control license requirements, as applicable.
- (9) Noise levels within the Promenade shall comply with the sound level limits of the adjacent use in accordance with Chapter 5, Article 9.5, Division 4.
- (10) For a Promenade located within the Gaslamp Quarter Planned District, the Gaslamp Quarter Planned District Design Guidelines shall apply.

(c) Design requirements:

- (1) The design and placement of street furniture, trees, and plantings along a Promenade shall not impede pedestrian flow.
- (2) The placement of name and type of establishment on umbrellas shall be permitted. Other signs shall not be permitted on a Promenade.
- (3) The design of a Promenade shall be in conformance with current Federal and State ADA guidelines.

- (4) The design of a Promenade shall be in accordance with current stormwater standards.

- (d) Exclusive use of a section of the Promenade for Outdoor Dining shall comply with the following:
 - (1) Alcohol, food, or beverages shall not be served or permitted within the Promenade before 7:00 a.m. and after 10:00 p.m. Sunday through Thursday, and before 7:00 a.m. and after 12:00 a.m. Friday through Saturday. No entertainment or amplified music shall be permitted within a Promenade before 8:00 a.m. and after 9:00 p.m. Sunday through Thursday, and before 9:00 a.m. and after 10:00 p.m. Friday through Saturday. For purposes of this subsection, Friday through Saturday shall include the day prior to a City Holiday.
 - (2) For outdoor dining within 150 feet of an adjacent residential use, alcohol, food, or beverages shall not be served or permitted within the Promenade before 7:00 a.m. and after 9:00 p.m. Sunday through Thursday, and before 7:00 a.m. and after 10:00 p.m. Friday through Saturday.

§142.0640 Impact Fees for Financing Public Facilities

- (a) [No change in text.]
- (b) Payment of Fees

The payment of Development Impact Fees (as defined in California Government Code Section 66000) shall be required prior to issuance of any Building Permit, in areas where Development Impact Fees have been established by City Council resolution or ordinance. Notwithstanding the above, the City Manager may also require the payment of Development Impact Fees prior to issuance of any *construction permit* issued or required for *development* that would increase demand for public facilities and/or result in the need for new public facilities, which shall include, but not be limited to, Outdoor Dining. The Development Impact Fees due shall be determined in accordance with the fee schedule approved by the applicable City Council resolution in effect upon the issuance of a Building Permit, or *construction permit*, as applicable, and may include an automatic increase consistent with Section 142.0640(c).

Exemptions:

- (1) through (5) [No change in text.]
- (6) For *development* of a Streetary, in accordance with Section 141.0621, the DIFs shall be assessed at a rate of 1/15th of the Development Impact Fees established by City Council resolution or ordinance, and shall be collected

every two years with the issuance of the applicable Public Right of Way Permit.

- (7) Social Curbs developed in accordance with Section 141.0621 and Promenades developed in accordance with Section 141.0629 are exempt from DIFs.

Table 142-06A [No change in text.]

(c) through (g) [No change in text.]

§126.0203 When a Neighborhood Use Permit Is Required

- (a) An application for the following uses in certain zones may require a Neighborhood Use Permit. To determine whether a Neighborhood Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13:

Artisan Food and Beverage Producer
Automobile service stations
Boarding kennels/pet day care facilities
Community gardens
Comprehensive sign plans
Eating and drinking establishments abutting residential zones (under circumstances described in Section 141.0607)
Employee housing
Home occupations (under circumstances described in Section 141.0308)
Interim ground floor residential use
Neighborhood identification signs
Parking facilities as a primary use
Pushcarts
Recycling facilities (under circumstances described in Section 141.0620)
Revolving projecting signs
Sidewalk cafes that deviate from the requirements of Section 141.0621(a)
Streetaries that deviate from the requirements of Section 141.0621(b)
Social Curbs that deviate from the requirements of Section 141.0621(c)
Signs with automatic changing copy
Temporary construction storage yards located off-site
Theater marquees
Urgent care facilities
Veterinary clinics and animal hospitals
Wireless communication facilities (under certain circumstances described in Section 141.0420)

- (b) [No change in text.]

§126.0205 Findings for Neighborhood Use Permit Approval

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A Neighborhood Use Permit may be approved or conditionally approved only if the decision maker makes the following findings:

(a) through (c) [No change in text.]

(d) Supplemental Findings – Streetaries and Social Curbs

A Neighborhood Use Permit required in accordance with Section 141.0621(b)(6) and 141.0621(c)(7) may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings required in Section 126.0205(a):

- (1) The proposed Streetary or Social Curb will not infringe on the use of the public right-of-way by pedestrians or bicyclists;
- (2) The proposed Streetary or Social Curb is compatible with other existing or planned uses in the vicinity;
- (3) The proposed Streetary or Social Curb will not adversely impact the pedestrian use of the public right-of-way.
- (4) The proposed Streetary or Social Curb will enhance the public right-of-way and encourage more pedestrian travel.

§126.0704 Exemptions from a Coastal Development Permit

The following coastal development is exempt from the requirement to obtain a Coastal Development Permit:

(a) through (i) [No change in text.]

(j) Streetaries, Social Curbs, Outdoor Dining on Private Property and Promenades designed in accordance with the Spaces as Places Design Manual.