

Article 1: Separately Regulated Use Regulations

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

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

§141.0601 Adult Entertainment Businesses

- (a) This section regulates the following adult entertainment businesses.
- (1) Adult body painting studios: Any business that provides the service of applying paint or other substance, whether transparent or nontransparent, to or on a human body whether the body is wholly or partially nude in terms of *specified anatomical areas*.
 - (2) Adult stores: Any business that devotes more than 15 percent of the total display, shelf, rack, table, stand, or *floor* used for the display of merchandise for sale or rent to the display of books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, slides, tapes, records, DVDs, CD-Rom, or other forms of visual or audio representations that are characterized by an emphasis upon depicting or describing *specified sexual activities* or *specified anatomical areas* or instruments, devices, or paraphernalia that are designed for use in connection with *specified sexual activities*.
 - (3) Adult cabarets: Any nightclub, bar, restaurant, or similar business that features live performances or features films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by an emphasis on depicting or describing *specified sexual activities* or by exposure of *specified anatomical areas* on more than 7 calendar days within any 56-consecutive-day period.
 - (4) Adult out-door theaters: Any *premises* and appurtenant facilities that are primarily used for the presentation of motion pictures, films, theatrical productions, or other forms of visual productions to persons in motor vehicles or on outdoor seats, where the material being presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating to *specified sexual activities* or *specified anatomical areas* for observation by patrons on more than 7 calendar days within any 56-consecutive-day period.

- (5) Adult massage businesses: Any premise and appurtenant facilities that are primarily used for massage, alcohol rub, fomentation, body scrub, body shampoo, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless the treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of California. Adult entertainment businesses do not include massage businesses that provide only specialized massage services that are operated in accordance with Section 141.0613.
- (6) Adult mini-motion picture theaters: Any business with a seating capacity of more than 5 but less than 50 persons where films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown and where the material shown is distinguished or characterized by an emphasis upon depicting or describing *specified sexual activities* or *specified anatomical areas* for observation by patrons on more than 7 calendar days within any 56-consecutive-day period.
- (7) Adult model studios: Any business open to the public where figure models who display *specified anatomical areas* are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons other than the proprietor and who pay a consideration or gratuity. Adult model studios do not include any school of art that is operated by an individual, firm, association, partnership, corporation, or institution that is authorized under the California Education Code to issue or confer a diploma.
- (8) Adult *motels*: Any *motel* or similar business offering public accommodations that provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions on more than 7 calendar days within any 56-consecutive-day period where the material is distinguished or characterized by an emphasis upon depicting or describing *specified sexual activities* or *specified anatomical areas* for observation by patrons.
- (9) Adult motion picture theaters: Any business with a seating capacity of 50 or more persons where motion pictures, video cassettes, slides, or similar photographic reproductions are shown on more than 7 calendar days within any 56-consecutive-day period and where the material is distinguished or characterized by an emphasis upon depicting or describing *specified sexual activities* or *specified anatomical areas* for observation by patrons.

- (10) Adult peep show businesses: Any place to which the public is permitted or invited where devices that display still or moving images are maintained in a peep booth, as defined in Municipal Code Section 33.3302, where the images are available for observation for more than 7 calendar days within any 56-consecutive-day period are distinguished or characterized by an emphasis on depicting or describing *specified sexual activities* or *specified anatomical areas*.
 - (11) Adult sexual encounter businesses: Any business, other than a hotel, *motel*, or similar business offering public accommodations that provides a place where two or more persons may congregate, associate, or consort in connection with *specified sexual activities* or the exposure of *specified anatomical areas*. Adult sexual encounter businesses do not include businesses where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of California engages in sexual therapy.
 - (12) Adult theaters: Any theater, concert hall, auditorium, or similar business either indoor or outdoor, that regularly features live performances that are distinguished or characterized by an emphasis on *specified sexual activities* or exposure of *specified anatomical areas* for observation by patrons on more than 7 calendar days within any 56-consecutive-day period.
- (b) Adult entertainment businesses 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.
- (1) Adult entertainment businesses shall not be established or enlarged if the *structure* housing the business would be located within 1,000 feet of any of the following:
 - (A) Another *structure* housing an adult entertainment business;
 - (B) The *property line* of a residentially zoned property; or
 - (C) The *property line* of a *church*, a *school*, a *public park*, or a *social service institution*.

- (2) The public health, safety, and welfare shall be preserved and protected by applying the provisions of this section in the following descending order of importance:
- (A) Proximity to other adult entertainment businesses;
 - (B) Proximity to *schools*;
 - (C) Proximity to *churches*;
 - (D) Proximity to *public parks*;
 - (E) Proximity to residential zones; and
 - (F) Proximity to *social service institutions*.

(Amended 2-22-2000 by O-18749 N.S.; effective outside of the Coastal Overlay Zone on 2-22-2000; effective within the Coastal Overlay Zone on 5-8-2001; amended 11-20-2000 by O-18890 N.S.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

§141.0602 Assembly and Entertainment Uses, Including Places of Religious Assembly

This use category applies to facilities designed to accommodate at least 25 people at a time for recreation, physical fitness, entertainment, or other assembly, including places of religious assembly. Assembly and entertainment uses are permitted as a limited use in accordance with Process One in zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Sections 141.0602(a) and (b). Assembly and entertainment uses may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Sections 141.0602(a) and (c).

- (a) General Regulations
 - (1) Assembly and entertainment uses are not permitted:
 - (A) Within the *MHPA*; and
 - (B) Within *floodplains* located in the Coastal Overlay Zone.

- (2) Assembly and entertainment uses shall provide off-street parking according to Table 142-05G. Within *transit priority areas*, parking may be reduced below the minimum required for residential *development*. The reduction in parking allowed shall be limited to the footprint of the residential *structure* and any required landscape or open space for the residential *development*.
 - (3) Auditoriums that are an *accessory use* to professional office or industrial *development* are not subject to Section 141.0602.
- (b) Limited Use Regulations
- (1) The facility shall be designed to accommodate a maximum of 300 people.
 - (2) Assembly and entertainment facilities adjacent to residentially zoned property shall not operate between 10:00 p.m. and 6:00 a.m., except that such facilities may operate until 11:00 p.m. on Fridays and Saturdays. Places of religious assembly shall not be subject to the limitations of Section 141.0602(b)(2).
 - (3) Deviations from Section 141.0602(b) may be permitted with a Conditional Use Permit decided in accordance with Process Three.
 - (4) On a *premises* that is identified as Prime Industrial Land in a *land use plan*, the following regulations apply:
 - (A) Auditoriums that are an *accessory use* to a professional office or an industrial *development* are permitted.
 - (B) Other assembly and entertainment uses are permitted as *accessory uses* provided that:
 - (i) The use occurs outside of normal business or operating hours and a majority of the uses shall not include minor-oriented uses or activities;
 - (ii) The use consists of temporary, non-permanent special events or activities; and
 - (iii) The space utilized shall not exceed 25 percent of the *gross floor area* of the *structure* or *structures* in which the ancillary use is located.

(c) Conditional Use Regulations

The decision maker shall consider, and may impose conditions to address, the following:

- (1) Hours of operation shall be limited to minimize disturbance to neighboring *development* from noise and lights.
- (2) *Structures* shall be placed on the site so that larger or high-activity buildings are away from adjacent property with smaller *structures* and lower levels of activity.
- (3) Off-street parking areas shall be located away from adjacent residential property whenever feasible to minimize disturbance to neighboring *development*.
- (4) The maximum capacity, including limits on the intensity of *accessory uses*, shall be limited to a level commensurate with the size of the *premises*, the intensity of surrounding *development*, and the capacity of *streets* serving the facility.
- (5) *Structures* shall be designed to incorporate a variety of architectural elements that diminish bulk.

(“*Assembly and Entertainment Uses, Including Places of Religious Assembly*” added 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)
(Amended 1-8-2020 by O-21161 N.S. and O-21164 N.S.; effective 2-9-2020.)

§141.0604 Boarding Kennels/Pet Day Care Facilities

Boarding kennels and pet day care facilities for the boarding, training and care of household pets 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 Section 141.0604(a) and (b). Boarding kennels and pet day care facilities may be permitted with a Neighborhood Use Permit decided in accordance with Process Two in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0604 (a) and (c).

(a) General Rules

- (1) Boarding kennels and pet day care facilities shall be operated and maintained in accordance with the health and sanitation regulations for health regulated businesses in Chapter 4, Article 2, Division 7 (Animals and Poultry).
- (2) Boarding kennels and pet day care facilities shall be maintained in a sanitary condition to minimize the impacts of odors on surrounding development.
- (3) Off-street parking *spaces* shall be provided at a rate of 2.5 spaces for every 1, 000 square feet of *floor* area.

(b) Limited Use Regulations

- (1) All boarding, training, and pet care activities shall be conducted within an enclosed building. Exterior boarding, training, and exercise facilities are not permitted as a limited use.
- (2) Kennels and associated *structures* shall not be located any closer than 50 feet to any *property line*, unless the *structures* are sound-proofed.
- (3) Deviations from Section 141.0604 may be permitted with a Neighborhood Use Permit decided in accordance with Process Two, with the exception of outdoor facilities in CN zones which are not permitted.

(c) Neighborhood Use Permit Regulations

- (1) Noise emanating from the facility shall be kept at minimum levels through the following methods:

- (A) Limitations on the number of animals permitted in exterior areas at any one time;
 - (B) Limitations on the hours that animals are permitted in exterior areas;
 - (C) Locating exterior boarding and exercise areas on those portions of the site where noise impacts on surrounding *development* will be minimized;
 - (D) The use of walls or *fences* to minimize noise impacts to surrounding *development*; and
 - (E) Sound-proofing of interior kennel areas.
- (2) Exterior boarding, training, and exercise facilities shall be *screened* from adjacent *development* by a 6-foot *solid fence* or wall.

(“Boarding Kennels” added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Retitled to “Boarding Kennels/Pet Day Care Facilities” and amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)
(Amended 11-16-2012 by O-20216 N.S.; effective 12-16-2012.)
(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)
(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)

§141.0605 Camping Parks

Camping parks may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) *Fill* or permanent buildings associated with the *development* of camping parks are not permitted in *floodplains* or in agricultural zones in *Proposition A Lands* or in agriculturally zoned areas of the Coastal Overlay Zone..
- (b) Access to the site shall be as direct as possible from *freeways* and shall avoid residential *streets*.
- (c) Pedestrian walkways shall be provided to link camping lots with service buildings, the park entrance, and any recreational facilities within the park.
- (d) Off-street parking shall be provided as follows:
 - (1) 1 space for each camping site;
 - (2) 1 space for each full-time employee; and
 - (3) 1 space for each 25 camping sites, to be located near the registration office.
- (e) All storage, service, and repair areas shall be located on the site so that they are not visible, or shall be *screened* so they are not visible from, adjacent *development* and *public rights-of-way*.
- (f) Recreational vehicles, trailers, and tents shall not be located closer than 15 feet to any *abutting property*.
- (g) Trash enclosures shall be provided for each four camping sites.
- (h) Maximum occupancy periods shall be as follows:
 - (1) For tents and trailers without utilities hook-up capacity: 1 month in any 12-month period; or
 - (2) For trailers or recreational vehicles with utilities hook-up capacity: 6 months in any 12-month period.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 4-8-2008 by O-19734 N.S; effective 5-8-2008.)

§141.0606 Child Care Facilities

- (a) This section regulates the following *child care facilities*:
- (1) Family child care homes: Any *child care facility* licensed by the State of California to provide regular care, protection and supervision of children in the child care provider's home, for periods of less than 24 hours per day, while the parents or authorized representatives are away.
 - (2) Child care centers: Any *child care facility*, other than a small or large family child care home, that is licensed by the State of California to provide child care: child care centers may be infant centers, preschools, or school-age, extended day care facilities.
- (b) Family Child Care Homes
- Large and small family child care homes are 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.
- (1) Large Family Child Care Homes
 - (A) A large family child care home may provide care for up to 12 children (no more than 4 of whom may be infants), or for up to 14 children as stated in Section 141.0606(b)(1)(B). Maximum capacity shall not exceed the capacity specified on the provider's license and shall include children under the age of 10 who reside at the licensee's home and the assistant provider's children under the age of 10.
 - (B) A large family child care home may provide care for a total of 13 or 14 children in accordance with Health and Safety Code Section 1597.465.
 - (C) The large family child care home provider shall comply with all state licensing requirements for large family child care homes.
 - (D) The large family child care home provider shall comply with standards adopted by the State Fire Marshal pursuant to California Health and Safety Code relating to large family child care homes.

(2) Small Family Child Care Homes

- (A) A small family child care home may provide care for up to 6 children (including 4 infants total or up to 3 infants where cared for in combination with other children), or for up to 8 children as stated in Section 141.0606(b)(2)(B). Maximum capacity shall not exceed the capacity specified on the provider's license and shall include children under the age of 10 who reside at the licensee's home.
- (B) A small family child care home may provide care for a total of 7 or 8 children in accordance with Health and Safety Code Section 1597.44.
- (C) The child care provider shall comply with all state licensing requirements for small family child care homes.

(c) Child Care Centers

Child care centers are permitted as a limited use in the zones indicated with an "L" and may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) Child care centers are not permitted within 1,000 feet of any known business that:
 - (A) Has or is required to have a permit from the County of San Diego Hazardous Materials Division, excluding underground fuel storage tanks, and handles regulated substances above the Threshold Quantity as listed in the California Code of Regulations, Title 19 Section 2770.5;
 - (B) Handles compressed flammable gases in excess of 1,500 pounds; or
 - (C) Handles flammable liquids in excess of 10,000 gallons.

- (2) The 1,000-foot separation distance shall be measured from the *property line* of the proposed *child care facility* to the use, storage, or handling areas for the regulated substances. Businesses may satisfy the separation requirements on-site. The child care center operator has the burden of proof of demonstrating compliance with the separation requirement.
- (3) Before beginning operation, the child care center operator shall obtain and shall maintain on file on the *premises* a “Hazardous Materials Substance Approval Form” executed by the County of San Diego Hazardous Materials Division.
- (4) Deviations from the hazardous materials separation requirements may be permitted with a Conditional Use Permit decided in accordance with Process Three. Issuance of the permit will be based in part on a “Health Risk Assessment Study” to be submitted by the *applicant*.
- (5) Drop-off and pick-up of children from vehicles shall be permitted only on the driveways, in approved parking areas, or in the *street* directly in front of the facility.
- (6) All outdoor play and activity areas shall be enclosed with a *fence* that is at least 4 feet and no more than 6 feet in height. If an outdoor play or activity area is located adjacent to a public *street* with a right-of-way width of 64 feet or more, the *fence* shall be solid.
- (7) All outdoor play and activity areas shall be separated from vehicular circulation, parking areas, equipment enclosures, storage areas, and refuse and recycling storage areas.
- (8) Child care centers shall be designed to attenuate significant outside noise sources. Surrounding uses shall also be protected from noise emanating from child care centers. The following measures are required to accomplish noise attenuation.
 - (A) A *solid fence* that is at least 4 feet and no more than 6 feet in height shall be constructed between the child care center and abutting residential uses, or all windows facing abutting residential uses shall be double-glazed with 1/4-inch thick glass.

- (B) A *solid fence* that is at least 4 feet and no more than 6 feet in height shall be constructed between the child care center and a *public right-of-way* of 64 feet or more wide, or all windows facing a *public right-of-way* of 64 feet or more wide shall be double-glazed with 1/4-inch thick glass.
- (9) Child care centers proposed to be located on public or private *school* sites are permitted as follows:
- (A) Child care centers proposed as an *accessory use* on the *premises* of a *school* are exempt from the provisions of this section. The child care center may be either school-operated or privately operated.
- (B) Child care centers proposed for location on private *school premises* in a zone where *schools* are a permitted use, are permitted as a limited use subject to the regulations of Section 141.0606(c).
- (C) Child care centers proposed for location on private *school premises* in a zone where *schools* are required to obtain a Conditional Use Permit shall also be required to obtain a Conditional Use Permit subject to the regulations in Section 141.0606(c).
- (10) Within the Coastal Overlay Zone, a child care center shall be permitted only on previously-developed sites that are not developed with open space or agricultural uses as identified in Section 131.0112.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

(Amended 11-13-08 by O-19799 N.S.; effective 12-13-2008.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)

[Editors Note: Amendments as adopted by O-21836 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language
http://docs.sandiego.gov/municode_strikeout_ord/O-21836-SO.pdf]

§141.0607 Eating and Drinking Establishments with Drive-in or Drive-through Service

Eating and drinking establishments that offer drive-in or drive-through service are permitted in zones indicated with a “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Eating and drinking establishments that offer drive-in or drive-through service may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the regulations in this Section. The Conditional Use Permit decision maker shall consider whether the proposed use minimizes adverse impacts on adjacent properties and surrounding neighborhoods. The decision maker may impose conditions in the Conditional Use Permit in addition to requiring compliance with the following:

- (a) A pedestrian and vehicular circulation plan shall be provided to ensure public safety.
- (b) Space for vehicle queuing for the drive-in or drive-through service shall be provided as follows:
 - (1) Queue space for a minimum of five cars shall be provided for each drive-up service window or position, as measured from the food and beverage pick-up window or position. The queue space for each car shall be 10 feet wide and 20 feet long, in accordance with Section 142.0560(i).
 - (2) In addition to the queuing space required under Section 141.0607(b)(1), a minimum of 40 feet in additional space shall be provided on the *premises* from the order station to provide additional queuing space for two cars prior to the order station.
 - (3) Required queue spaces shall not obstruct access to parking aisles or parking spaces.
- (c) Hours of operation shall be limited as appropriate for the location.
- (d) Noise reduction techniques shall be incorporated, including measures to ensure that speaker systems are not audible beyond the *property line*.
- (e) A lighting control plan shall be provided to minimize potential off-site impacts.
- (f) A litter control plan to keep the *premises* free of litter and to prevent litter attributable to the establishment from occurring on adjacent properties shall be provided.

- (g) The operator of the establishment shall take reasonable steps to prevent loitering on the *premises*, in parking lots serving the *premises*, and on public sidewalks adjacent to the *premises*.

(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015. Former Section 141.0607 repealed and replaced.)

(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)

§141.0608 Fairgrounds

Fairgrounds may be permitted with a Conditional Use Permit decided in accordance with Process Five in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Fairgrounds are not permitted in agricultural zones *Proposition A Lands*. *Fill* or permanent buildings are not permitted in *floodplains* located in agriculturally zoned areas of the Coastal Overlay Zone.
- (b) The design of the *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.
- (c) Larger *structures*, areas of high activity, and parking areas shall be located to minimize impacts to surrounding *development* that is smaller in scale and less intense.
- (d) Access to the facility shall be as direct as possible from *freeways* and primary arterials and shall avoid residential *streets*.
- (e) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.
- (f) All storage, service, and repair areas shall be located on the site so that they are not visible, or shall be *screened* so that they are not visible, from adjacent *development* and *public rights-of-way*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 4-8-2008 by O-19734 N.S.; effective 5-8-2008.)

§141.0609 Golf Courses, Driving Ranges, and Pitch and Putt Courses

Golf courses, driving ranges, and pitch and putt courses may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Golf courses, driving ranges, and pitch and putt courses are not permitted within the *MHPA*.
- (b) Club houses containing the following *accessory uses* may be permitted, but shall be available only to the users of the golf facility and shall be restricted by the size of the *premises* and the potential impacts on surrounding *development*:
 - (1) Restaurants and bars;
 - (2) Pro shops;
 - (3) Meeting rooms; and
 - (4) Locker rooms.
- (c) Off-street parking shall be provided as follows:
 - Regulation course: 10 spaces per hole
 - Short course/Par 3: 6 spaces per hole
 - Pitch and putt course: 3 spaces per hole
 - Driving range: 1 space per tee
 - Snack bar: 12 spaces
 - Proshop: 5 spaces
- (d) Fairways and greens shall be designed with buffer areas that provide protection to surrounding *development* from golf balls.
- (e) A gradual physical and visual transition shall be provided between the fairways and greens and any adjacent areas with natural vegetation.
- (f) All maintenance facilities shall be located on the *premises* in a manner that minimizes visual impacts on surrounding *development*.
- (g) All runoff due to irrigation shall be managed in a manner that protects the water table from fertilizer and insecticide pollutants.

(h) A water reclamation plan is required before approval of the permit.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§141.0610 Helicopter Landing Facilities

Helicopter landing facilities may be permitted with a Conditional Use Permit decided in accordance with Process Five in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Helicopter landing facilities are not permitted in *floodplains* located in the Coastal Overlay Zone.
- (b) Helicopter facilities in urban areas shall be located within 1/2 mile of *freeways* or primary arterials. Access to both private and public transportation should be provided.
- (c) Helicopter facilities shall be located to ensure that the approach and departure paths are over terrain that affords emergency landing areas such as open parks, golf courses, industrial areas, highways, *freeways*, and open land.
- (d) Approach and departure paths over residential *development, schools, playgrounds, assembly areas*, or highly populated areas shall be avoided.
- (e) There shall be a reasonable distance between the helicopter facility and residential areas, educational facilities, or public assembly uses. A 750-foot distance, measured from *property line* to *property line* in accordance with Section 113.0225, shall be used as a standard distance.
- (f) The site shall be served by *streets* that are adequate in width and pavement type for the quantity and level of traffic generated by the helicopter facility. Paths for pedestrian use shall be provided.
- (g) Additional *screening*, beyond the required fencing, may be required to minimize visual impacts. All auxiliary facilities shall be *screened*. Outdoor storage of equipment or parts is not permitted.
- (h) A telephone shall be provided adjacent to the helicopter facility.
- (i) The site shall be served by a fire station, or fire prevention service, within reasonable proximity.

- (j) Helicopter facilities shall, whenever possible, serve more than one user. This should include availability for emergency use.
- (k) Helicopter facilities shall comply with Municipal Code Chapter 6, Article 8, Division 2 (San Diego Helicopter Rules and Regulations).
- (l) Helicopter facilities may be limited in frequency of trips and hours of operation if the operations would be disruptive to adjacent properties.
- (m) The sound generated by any helicopter shall not exceed the “A” weighted maximum sound level provided in Table 141-06A on the boundary or beyond the boundary of the property on which the facility is located. The sound subject to these limits is that part of the total sound at the property boundary that is due solely to the operation of the helicopter. The sound level limit at a location on a boundary between two land uses shall be the lower of the two sound levels specified.

Table 141-06A
Sound Level Limits for Helicopter Landing Facilities

Land Use	Time	A-Weighted Maximum Sound Level
Residential Uses	7:00 a.m.- 7:00 p.m.	75
	7:00 p.m.-10:00 p.m.	70
	10:00 p.m.- 7:00 a.m.	65
Commercial Uses	7:00 a.m.- 7:00 p.m.	80
	7:00 p.m.-10:00 p.m.	75
	10:00 p.m.- 7:00 a.m.	75
Industrial Uses	7:00 a.m.- 7:00 p.m.	90
	7:00 p.m.-10:00 p.m.	90
	10:00 p.m.- 7:00 a.m.	90

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§141.0612 Mobile Food Trucks

Mobile food trucks are temporarily parked, operable motorized vehicles that function as transportable retail food and beverage facilities that move daily. This use category includes mobile food trucks that provide sales to the general public of food and beverage (pre-packaged or prepared and served from the vehicle or an attached trailer) for consumption on or off of the *premises*. They are health regulated businesses subject to Chapter 4, Article 2, Division 1. This use category does not include pushcarts as described in Section 141.0619, farmers' markets as described in Section 141.0503, or off-site food and beverage delivery services.

(a) Zoning Regulations.

- (1) In the zones indicated with a “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), mobile food trucks are permitted by right and are not required to obtain a permit or comply with Section 141.0612.
- (2) In the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), mobile food trucks are permitted as a limited use, subject to Section 141.0612.

(b) General Regulations.

Mobile food truck operators shall comply with all of the following:

- (1) maintenance of a valid business tax certificate from the City of San Diego to operate within the City;
- (2) maintenance of a valid County of San Diego Health permit and operation in conformance with all applicable health standards;
- (3) posting, in public view and without obstruction, on both the front right windshield and the back left bumper of the mobile food truck, the following items: the County of San Diego Health permit certification stickers; and a notice with at least 3-inch font providing “To report a violation, call City of San Diego Code Enforcement at 619-236-5500”;
- (4) selling only food and beverage items regulated under the California Retail Food Code (California Health and Safety Code Division 104, Part 7, Section 113700 et. seq., as it currently exists or may be amended);

- (5) no verbal solicitation of business from pedestrians or persons in vehicles, and no sale to persons in vehicles;
- (6) no amplified sound or loudspeakers, and compliance with the noise limits in section 59.5.0401;
- (7) no lighting, except localized lighting that is used on or in the mobile food trucks for the purpose of inside food preparation and menu illumination;
- (8) no *signs* other than those exhibited on or in the mobile food truck, except for one temporary *ground sign*, located entirely on private property, with a maximum display area of six square feet, in compliance with Section 141.0612(b)(15) and (16);
- (9) no selling or serving alcohol;
- (10) provision of one trash receptacle and one recycling receptacle for use by patrons and in a convenient location that does not impede pedestrian or vehicular traffic;
- (11) collection and removal of all litter or debris generated within a minimum 25-foot radius of the food truck;
- (12) containment of all associated equipment and operations within the mobile food truck, except for the trash and recycling receptacles required by Section 141.0612(b)(10);
- (13) no furniture, except for a maximum of two standing tables and a shade canopy with maximum dimensions of 10 feet by 10 feet, located entirely on private property, generators, objects or *structures* outside of the vehicle except for *signs* as allowed in Section 141.0612(b)(8);
- (14) where located within 300 feet of a *dwelling unit*, operation only between 6 a.m. and 10 p.m. Sunday through Thursday and between 6 a.m. and 11p.m. Friday and Saturday;
- (15) no obstruction or interference with the free flow of pedestrian or vehicular traffic, including but not limited to access to or from any business, public building, or *dwelling unit*; and

- (16) no restriction of *visibility area* sight distance at any driveway or intersection.
- (c) Mobile food trucks in the *Public Right-of-Way*.

Mobile food truck operators shall comply with all of the following:

- (1) maintenance of liability insurance policy of at least \$1,000,000 that names the City as an additional insured;
- (2) the mobile food truck shall be legally parked;
- (3) mobile food trucks shall not operate in the *public right-of-way* within 500 feet from any kindergarten-twelfth grade school, between 7:00 a.m. and 4:00 p.m. on regular school days;
- (4) mobile food trucks that constitute oversized vehicles, as defined in section 81.010, shall comply with the distance requirements of section 86.0139. Mobile food trucks that do not constitute oversized vehicles shall not be parked within 25 feet from a street intersection with a crosswalk, traffic light, or stop sign, or within 25 feet from a bus stop or trolley stop;
- (5) mobile food trucks shall not occupy more than two on-street parking spaces in the *public right-of-way* in commercial zones;
- (6) mobile food truck operators shall organize customer queuing in a manner that does not interfere with or obstruct the free passage of pedestrians;
- (7) mobile food truck operators shall limit food and beverage service to that side of the mobile food truck facing away from the *street*;
- (8) mobile food trucks shall not encroach onto a public sidewalk with any part of the vehicle or any other equipment or furniture related to the operation of the business, except for required trash and recycling receptacles or any attached *sign* or awning. The operator shall provide an 8-foot vertical clearance for pedestrian access under any *sign* or awning;
- (9) mobile food truck operators shall control smoke and odors caused by food preparation to avoid a public nuisance;

- (10) mobile food trucks are not permitted in the *public right-of-way* within the Parking Impact Overlay Zone as described in Section 132.0802; and
- (11) a mobile food truck shall not operate in the *public right-of-way* within 500 feet of a permitted Special Event on public property while such event is in progress unless the mobile food truck has either (i) written authorization from the Event Organizer or (ii) a Special Event Permit as defined in section 22.4003.

(d) **Mobile Food Trucks on Private Property.**

Property owners and *permit holders* shall comply with all of the following:

- (1) obtain an approved mobile food truck permit in accordance with Section 123.0602, unless exempted by Section 141.0612(f);
- (2) ensure that a mobile food truck operator operates only at the location designated on the permit;
- (3) ensure that a mobile food truck operator displays a copy of the approved mobile food truck permit in a prominent and visible place within each mobile food truck, together with a letter of permission from the *permit holder* consenting to mobile food truck operations on the site in accordance with the approved permit;
- (4) mobile food truck operations shall not occupy more than 25 percent of the area of the *premises*; and
- (5) mobile food trucks shall operate as follows:
 - (A) within a paved, level parking area, where it can be demonstrated that any off-street parking spaces located in that area are not otherwise reserved, encumbered, or designated to satisfy the off-street parking requirement of a business or activity that is operating at the same time as the mobile food truck;
 - (B) a mobile food truck requires a minimum paved area of 35 feet by 15 feet in dimension and at least 70 feet by 15 feet for mobile food trucks greater than 27 feet in length; and

(C) operations shall not impede pedestrian or vehicular ingress or egress through the remainder of the parking area or adjacent *public right-of-way*.

(e) Neighborhood Use Permit.

A Process Two Neighborhood Use Permit may be requested in accordance with Section 126.0203 to deviate from Section 141.0612 on private property.

(f) Exemptions from Mobile Food Truck Permits.

The following types of mobile food truck operations are exempt from the requirement to obtain a mobile food truck permit:

- (1) operations in the zones indicated with a “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones);
- (2) operations on the property of a *school*, university, hospital, or religious facility with the written consent of the property owner or authorized school official;
- (3) operations in RM zones where permitted as a limited use and with the written consent of the property owner or authorized leasing office;
- (4) private catering events that comply with the following requirements:
 - (i) the mobile food truck is parked entirely on private property;
 - (ii) service is limited to private guests of the catering host; and
 - (iii) payment occurs directly between the catering event host and the mobile food truck operator. No payment transactions shall occur for individual orders; and
- (5) construction sites that comply with the following requirements:
 - (i) the site is actively under construction pursuant to a valid building permit or grading permit; and
 - (ii) the mobile food truck does not vend to the general public during the stop.

(“Mobile Food Trucks” added 4-3-2014 by O-20357 N.S.; effective 10-15-2014.)

(Amended 3-22-2018 by O-20917 N.S.; effective 4-21-2018.)

(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)

§141.0613 Massage Establishments, Specialized Practice

Specialized practice massage establishments are police regulated businesses subject to Chapter 3, Article 3, Division 35 and 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.

- (a) Any *sign* advertising the establishment shall contain the full name of the operator and may contain words that identify the specialized field of practice in which the operator engages.
- (b) The letters of any words identifying the operator’s specialized field of practice shall not exceed one-half of the height of the capital letters in the name of the operator, and the words shall be uniform in height.
- (c) The phrase “massage parlor” or “massage establishment” shall not be used on any *sign* or any other form of advertising unless preceded by words identifying the specialized field of practice.
- (d) The *applicant* shall submit scale drawings of all *signs* that will be displayed on the *premises* to the City Manager to determine compliance with this section.
- (e) The application and business tax certificate for the establishment shall identify the business as a “Massage Establishment, Specialized Practice, pursuant to Municipal Code Section 141.0613.”

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

§141.0615 Nightclubs and Bars over 5,000 Square Feet in Size

Nightclubs and bars over 5,000 square feet in size may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property. Within the beach impact area of the Parking Impact Overlay Zone, off-street parking shall be provided at a ratio not less than one parking space for every 200 sq ft of gross floor area, including any outdoor eating or drinking areas.
- (b) Hours of operation shall be limited so that neighboring *development* is not disturbed by noise and lights.
- (c) A litter control plan shall be implemented to keep the facility and adjacent property free of litter.
- (d) All storage, service, and repair areas shall be located on the site so that they are not visible from adjacent *development* and *public rights-of-way*.

(Renumbered from former Section 141.0614 on 3-25-2014 by O-20356 N.S.; effective 4-24-2014.)

§141.0616 Parking Facilities as a Primary Use

This section regulates temporary parking facilities and permanent parking facilities as the *primary use* on a *premises*.

(a) Temporary Parking Facilities as a *Primary Use*

Temporary parking facilities as a *primary use* may be permitted with a Neighborhood Use Permit in the zones indicated with an “N,” or with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C,” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) The decision maker may grant exceptions to the provisions in Chapter 14, Article 2, Division 5 (Parking Regulations) regulating parking in required *yards*, carpool parking, bicycle facilities, striping, surfacing, driveways, wheel stops, and *screening* based on the potential impact of the facility and the duration of the permit.

- (2) Requirements for improvements in the *public right-of-way* will be based on the location of the proposed facility, existing improvements, and the duration of the permit.
 - (3) The decision maker may require dust-control measures, drainage improvements, fencing, or lighting as appropriate.
 - (4) Neighborhood Use Permits for temporary parking facilities expire no later than 2 years from the date of issue.
- (b) Permanent Parking Facilities as a *Primary Use*
- Permanent parking facilities as a *primary use* may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.
- (1) If the parking facility includes parking *structures*, a variety of architectural elements shall be incorporated to help diminish building bulk and blank facades.
 - (2) Automobile access to the facility shall be at points of low pedestrian activity and shall be located away from adjacent residential *development*.
 - (3) Surface parking facilities shall be *screened* from adjacent residential *development* by fences or walls and landscaping.
 - (4) Measures shall be taken to ensure that the ground water table is not adversely affected by the increase of impermeable surfaces due to the *development* of the facility.
 - (5) Measures shall be taken to ensure that the water quality is not adversely affected by runoff containing fuel and lubricants.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§141.0617 Private Clubs, Lodges, and Fraternal Organizations

Private clubs, lodges, and fraternal organizations are associations of persons, whether incorporated or unincorporated, for the promotion of some common social, cultural, educational, religious, or recreational objective. This use does not include *churches* or any group whose primary objective is a business customarily carried on for a profit.

Private clubs, lodges, and fraternal organizations may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property. Within the beach impact area of the Parking Impact Overlay Zone, off-street parking shall be provided at a ratio not less than one parking space for every 200 sq ft of gross floor area.
- (b) All storage, service, and repair areas shall be located on the site so that they are not visible from adjacent *development* and *public rights-of-way*.
- (c) A litter control plan shall be required to keep the facility and adjacent property free of litter.
- (d) Hours of operation shall be limited so that neighboring *development* is not disturbed by noise and lights.
- (e) Private clubs, lodges, and fraternal organizations are not permitted on a *premises* that is identified as Prime Industrial Land in a *land use plan* or within *floodplains* located in the Coastal Overlay Zone.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)

§141.0618 Privately Operated, Outdoor Recreation Facilities over 40,000 Square Feet in Size

Privately operated, outdoor recreational facilities over 40,000 square feet in size may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Privately operated, outdoor recreational facilities are not permitted in agricultural zones in *Proposition A Lands* or within *floodplains* located in agriculturally zoned areas of the Coastal Overlay Zone.
- (b) Larger *structures*, areas of high activity, and parking areas shall be located to minimize impacts to surrounding *development* that is smaller in scale and less intense.
- (c) Access to the facility shall be as direct as possible from *freeways* and primary arterials and shall avoid residential *streets*.
- (d) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.
- (e) Hours of operation may be limited so that neighboring *development* is not disturbed by noise and lights.
- (f) A litter control plan shall be required to keep the facility and adjacent property free of litter.
- (g) All storage, service, and repair areas shall be located on the site so that they are not visible, or shall be *screened* so that they are not visible, from adjacent *development* and *public rights-of-way*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 4-8-2008 by O-19734 N.S; effective 5-8-2008.)

§141.0619 Pushcarts on Private Property and Sidewalk Vendors

This Section regulates pushcarts on private property and Sidewalk Vendors. Pushcarts are moveable, wheeled, non-motorized vehicles used by vendors for the sale of food or beverage products, fresh-cut flowers, or live plants in pots. Pushcarts are a health-regulated business subject to Section 42.0102. For purposes of this section, Sidewalk Vendor has the same meaning as in San Diego Municipal Code Section 36.0102.

(a) Pushcarts on Private Property

Pushcarts are permitted on private property 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.

- (1) Pushcarts are not permitted in required yards, required landscape areas, or required parking areas.
- (2) Pushcarts shall not exceed 4 feet in width, not including wheels; 8 feet in length, including handles; and 6 feet in height, not including canopies, umbrellas, and transparent enclosures.
- (3) Pushcart operators shall not verbally solicit business from pedestrians or persons in vehicles and shall not sell to persons in vehicles.
- (4) The price of items sold shall be posted on the pushcart and shall be clearly legible.

(b) Sidewalk Vendors

Sidewalk Vendors shall not interfere with public access to the shoreline, as identified in *land use plans* that are part of the certified *Local Coastal Program*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

(Retitled from “Pushcarts” to “Pushcarts on Private Property” and amended 5-23-2022 by O-21458 N.S.; effective 6-22-2022.)

(Retitled from “Pushcarts on Private Property” to “Pushcarts on Private Property and Sidewalk Vendors” and amended 12-14-2022 by O-21578 N.S.; effective 1-13-2023.)

[Editors Note: Amendments as adopted by O-21578 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language
http://docs.sandiego.gov/municode_strikeout_ord/O-21578-SO.pdf]

§141.0620 Recycling Facilities

- (a) This section regulates the following types of *recycling facilities*:
- (1) Drop-off facilities: Drop-off facilities are bins, boxes, or other suitable containers for the donation of recyclable or reusable material.
 - (2) Reverse vending machines: Reverse vending machines are automated mechanical devices that accept empty beverage containers and issue a cash refund or redeemable credit slip with a value that is equal to or greater than the container's redemption value as determined by the State of California.
 - (3) Small collection facilities and large collection facilities: Collection facilities are centers for accepting *recyclable materials* by donation, redemption, or purchase.
 - (4) Small processing facilities and large processing facilities: Processing facilities are centers for collecting and processing recycling materials predominantly from commercial and industrial sources.
 - (5) Green materials composting facilities: Green materials composting facilities are centers that produce a humus-like material under a process of managed biological decomposition from green materials, leaves, tree trimmings, untreated wood, shrubbery cuttings, or other plant matter that has been source-separated from the municipal solid waste stream.
 - (6) Mixed organics composting facilities: Mixed organics composting facilities are centers that produce a humus-like material under a process of managed biological decomposition from green materials, leaves, tree trimmings, untreated wood, shrubbery cuttings, kelp, other plant material, manure, or urea that has been source-separated from the municipal solid waste stream.

- (7) Tire processing facilities: Tire processing facilities are centers that accept whole tires for shredding, chopping, or other size-reduction techniques, as well as pyrolyzation.
- (8) Small construction and demolition debris *recycling facilities* and large construction and demolition (C&D) debris *recycling facilities*: C&D debris *recycling facilities* are centers that process, crush, grind, or screen *recyclable construction and demolition debris*.

(b) Drop-off Facilities

Drop-off facilities 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.

- (1) Drop-off facilities shall be set back at least 10 feet from any building or *public right-of-way* and shall not obstruct pedestrian or vehicular access.
- (2) Landscaping and off-street parking required for other uses on the *premises* shall not be eliminated to accommodate drop-off facilities.
- (3) Collection containers for 24-hour donation of material shall be placed at least 30 feet from residentially zoned property, unless there is an enclosed area for donations.
- (4) The capacity of all collection containers on the *premises* shall not exceed 192 cubic feet.
- (5) Collection containers shall be constructed of sturdy material and maintained in good condition.
- (6) Collection containers shall be clearly marked to identify the type of material that may be deposited and the name and telephone number of the facility operator. A notice shall be displayed stating that material may not be left outside the containers.
- (7) Facilities shall be kept free of litter.

(c) Reverse Vending Machines

Reverse vending machines 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.

- (1) Reverse vending machines may sort and process beverage containers mechanically if the entire process is enclosed within the machines.
- (2) The total area occupied by reverse vending machines shall not exceed 50 square feet per *premises*, including any protective enclosure, and shall not exceed 8 feet in height.
- (3) Reverse vending machines shall be placed within 30 feet of the entrance to the commercial or industrial *structure* with which they are located. The machines shall not obstruct pedestrian or vehicular access or any activity on the *premises*.
- (4) The maximum permitted *sign* area for each machine, not including operating instructions, is 2 square feet.
- (5) Reverse vending machine facilities shall be illuminated to ensure safe operation if operating hours are between sunset and sunrise.
- (6) *Internally illuminated signs* are not permitted. Exterior lighting used to illuminate *signs* shall be directed away from adjacent property.
- (7) Reverse vending machines shall not occupy required parking spaces.
- (8) Reverse vending machines shall be constructed of durable, waterproof, and rustproof material.
- (9) Reverse vending machines shall be clearly marked to identify the type of material to be deposited, the operating instructions, and the identity and telephone number of the operator or responsible person to call if the machines are inoperative.
- (10) Operating hours shall be the same as the operating hours for the *primary use* on the *premises*.

- (11) The site shall be kept free of litter and the machines shall be kept clean.

(d) **Small Collection Facilities**

Small collection facilities 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.

- (1) Small collection facilities located in agricultural zones shall be limited to the collection of *recyclable material* generated by agricultural activities.
- (2) Small collection facilities may accept only *recyclable material* including glass, metal, plastic products, paper, and reusable items.
- (3) Small collection facilities may include the following:
 - (A) A mobile recycling unit consisting of automobiles, trucks, or vans licensed by the California Department of Motor Vehicles and used for the collection of *recyclable material*, and the containers transported by these vehicles;
 - (B) Bulk reverse vending machines, or a group of reverse vending machines, occupying more than 50 square feet of floor area and designed to accept more than one container at a time and pay by weight rather than by container;
 - (C) Kiosk type units, which may include permanent *structures*; and
 - (D) Unattended containers, which may exceed a capacity of 192 cubic feet.
- (4) Power-driven processing equipment, other than bulk reverse vending machines, is not permitted.
- (5) Small collection facilities shall not exceed 500 square feet in commercial zones and 800 square feet in agricultural and industrial zones.
- (6) Facilities that are not within a fully enclosed building shall be set back at least 10 feet from any building and from any *public right-of-way*, and shall not obstruct pedestrian or vehicular circulation.

- (7) Small collection facilities that are located in open parking lots shall occupy no more than five parking spaces, not including the spaces to be used for removal of material or exchange of containers.
- (8) No additional parking spaces are required for small collection facilities located in the established parking lot of the *primary use*.
- (9) Facilities shall not occupy parking spaces required for the *primary use* unless both of the following conditions exist:
 - (A) The facility is located in a convenience zone or a potential convenience zone as designated by the California Department of Conservation; and
 - (B) A traffic study showing that the existing parking capacity is not being fully used during the facility's hours of operation has been prepared and approved by the City Manager.
- (10) If a facility is located within parking spaces required for the *primary use*, a reduction in available parking spaces in an established parking facility may be permitted as shown in Table 141-06B.

Table 141-06B
Parking Reduction for Recycling Facilities
Within Required Parking Areas

Number of Available Parking Spaces	Maximum Reduction
0-25	0
26-35	2
36-50	3
51-100	4
101+	5

- (11) *Signs* may be provided in accordance with the following.
 - (A) Recycling containers may have identification *signs* with a maximum *sign* area of 20 percent of the container area per side, not to exceed 16 square feet.
 - (B) Directional *signs*, bearing no advertising message, may be installed if necessary to facilitate traffic circulation.
 - (C) *Internally illuminated signs* are not permitted. Exterior lighting used to illuminate any *sign* shall be directed away from adjacent properties.
- (12) The installation of the facility shall not result in the elimination of any required landscaping.
- (13) All *recyclable material* shall be stored in collection containers or in vehicles used to remove *recyclable material*.
- (14) Collection containers for 24-hour donation of material shall be placed at least 30 feet from residentially zoned property, unless there is an enclosed area for donations.
- (15) Collection containers shall be clearly marked to identify the type of material that may be deposited and the name and telephone number of the facility operator. A notice shall be displayed stating that material may not be left outside the containers.
- (16) Collection containers shall be constructed of durable, waterproof, and rustproof material and shall be maintained in good condition.
- (17) Collection containers shall be covered and secured from unauthorized entry when the site is not attended.
- (18) Facilities shall be kept free of litter and shall be swept at the end of each collection day.
- (19) Attended facilities shall be in operation only during the hours of operation of the *primary use* on the *premises*. If the small collection facility is the only use on the *premises*, it shall operate only during the hours between sunrise and sunset. Facilities located within 100 feet of residentially zoned property shall operate only during the hours between 9:00 a.m. and 7:00 p.m.

- (20) A small collection facility that is inoperative for a period of 30 calendar days or more shall be removed from the site.

(e) Large Collection Facilities

Large collection facilities may be permitted with a Neighborhood Use Permit in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) Large collection facilities located in agricultural zones shall be no more than 2 acres in size and shall be limited to the collection of *recyclable material* generated by agricultural activities.
- (2) Large collection facilities may aggregate or sort *recyclable material* collected or accepted by on-site donation, redemption, or purchase predominantly from the public in preparation for shipping to market.
- (3) Power-driven processing equipment, including equipment used for aluminum foil and can compacting, baling, plastic shredding, and other limited processing activities may be permitted if in compliance with the noise regulations in Section 142.0720.
- (4) Large collection facilities shall be located at least 150 feet from residentially zoned property unless they are within an entirely enclosed building.
- (5) Large collection facilities shall be located within a fully enclosed building or shall be enclosed by a *solid fence* or wall that is at least 6 feet high. Landscaping shall be provided on all sides of the *fence* or wall that face a *public right-of-way*. Material shall not be stored above the height of the *fence* or wall.
- (6) *Off-street parking spaces* shall be provided for each commercial vehicle used at the facility and for six customer vehicles, or the anticipated peak customer load, whichever is higher.
- (7) Identification and informational *signs*, without advertisements, may be installed if needed for traffic circulation, or if the facility is not visible from the *public right-of-way*.
- (8) Collection containers provided for after-hours donation of *recyclable material* shall be located at least 50 feet from any residentially zoned property and at least 10 feet from any building.

- (9) Collection containers shall be constructed of durable, waterproof, rustproof, and nonflammable material and shall be maintained in good condition.
 - (10) Collection containers shall be covered and secured from unauthorized entry or removal of material.
 - (11) Facilities shall be clearly marked with the name and telephone number of the facility operator and the hours of operation. A notice shall be displayed stating that material may not be left outside the containers.
 - (12) Facilities shall be kept free of litter and shall be swept at the end of each collection day.
 - (13) Facilities located within 500 feet of residentially zoned property may operate only during the hours between 7:00 a.m. and 7:00 p.m.
- (f) Small Processing Facilities and Large Processing Facilities

Small processing facilities and large processing facilities are permitted as limited uses in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. These facilities may be permitted with a Neighborhood Use Permit in the zones indicated with an “N” or with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) Small processing facilities may not exceed 1 acre. Large processing facilities may exceed 1 acre.
- (2) Small processing facilities are limited to baling, briquetting, compacting, grinding, shredding, and sorting of source-separated *recyclable material* and repairing of reusable material, except that the facility may not shred, compact, or bale ferrous metals other than food and beverage containers.
- (3) Air contaminants including smoke, charred paper, dust, grime, carbon, noxious acids, fumes, gases, odors, particulate matter; or emissions that endanger human health, cause damage to vegetation or property, or cause soiling, vibration or above ambient noise levels that are detectable on neighboring properties are not permitted.

- (4) Power-driven processing equipment may be permitted if in compliance with the noise regulations in Section 142.0720.
- (5) All processors shall be located at least 300 feet from residentially zoned property except that within *Recycling Market Development Zones*, processors may be located within 300 feet of a residentially zoned property if processing occurs within a fully enclosed building.
- (6) Processing operations shall take place either in a fully enclosed building (except for incidental storage) or within an area enclosed on all sides by a *solid fence* or wall that is at least 6 feet high and is landscaped on all sides that face a *public right-of-way*.
- (7) In addition to the off-street parking required by Chapter 14, Article 2, Division 5 (Parking Regulations) the following parking spaces are required if the facility is open to the public:
 - (A) At least 10 customer parking spaces, or enough parking to accommodate the anticipated peak customer load, whichever is higher; and
 - (B) One parking space for each commercial vehicle used by the processing center.
- (8) Collection containers provided for after-hours donation of *recyclable material* shall be placed at least 50 feet from any residentially zoned property and at least 10 feet from any building.
- (9) Collection containers shall be clearly marked to identify the type of material that may be deposited. A notice shall be displayed stating that material may not be left outside the containers.
- (10) Collection containers shall be constructed of sturdy, rustproof, and waterproof material and shall be maintained in good condition. The containers shall be covered and secured from unauthorized entry and removal of material.
- (11) All material stored outdoors that might attract vectors shall be in sturdy containers that are covered, secured, and maintained in good condition. Baled, bulk, or pelletized material that is not easily confined or stored in containers may be stored behind walls or *fences*. Stored material shall not be visible above the *fence*.

- (12) The facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation.
 - (13) The site shall be kept free of litter and shall be cleaned on a daily basis.
 - (14) Facilities located within 500 feet of residentially zoned property may operate only during the hours between 7:00 a.m. and 7:00 p.m. The facility shall be staffed by on-site personnel during the hours the center is open.
- (g) **Green Materials Composting Facilities and Mixed Organics Composting Facilities**

Green materials composting facilities and mixed organics composting facilities 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.

These facilities may be permitted with a Neighborhood Use Permit in the zones indicated with an “N” or a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. Backyard composting and composting operations incidental to farming are not subject to Section 141.0620 if the compost is used on-site. Composting activities that process or have 500 cubic yards or less of green material or organic material feedstock and active compost on-site are not subject to these regulations.

- (1) Composting operations shall be located at least 300 feet from residentially or commercially zoned property, except that within *Recycling Market Development Zones*, composting facilities may be located within 300 feet if the operations are within a fully enclosed building.
- (2) Composting operations shall be within an area enclosed on all sides by fences. Fences within 50 feet of a *public right-of-way*, excluding alleys, shall be solid fences.
- (3) The active composting material shall not exceed the allowable limits of additives and amendments as defined in the California Code of Regulation, Chapter 3.1.

- (4) The facility shall not compost septage, sewage, sewage sludge, or mixed municipal solid wastes.
 - (5) Space shall be provided on the site for the anticipated peak customer load to circulate and deposit or load feedstock or finished compost.
 - (6) The facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation.
 - (7) The facility shall be kept free of litter.
 - (8) The facility shall be secured from unauthorized entry and removal of material when the operator is not present.
 - (9) Any permit issued by the City shall be void if the facility does not obtain other required local and state permits or does not comply with the composting facility regulations in the California Code of Regulations.
- (h) Tire processing facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.
- (1) Tire processing operations shall be located at least 300 feet from residentially zoned property, except that within *Recycling Market Development Zones*, tire processors may be located within 300 feet of a residentially zoned property if processing occurs within a fully enclosed building.
 - (2) Tire processing operations shall take place either in a fully enclosed building (except for incidental storage) or in an area enclosed on all sides by a *solid fence* or wall that is at least 6 feet high and is landscaped on all sides that face a *public right-of-way*.
 - (3) Tire processing facilities shall not manufacture tire-derived recycled products.
 - (4) Tire processing facilities shall be designed and constructed to provide protection to bodies of water from potential runoff of pyrolytic oil that could result from a tire fire.

- (5) The facility shall not have driveway gradients or other physical features that will interfere with fire fighting equipment or personnel.
- (6) Space shall be provided on the site for the anticipated peak customer load to circulate and deposit or load feedstock or finished products.
- (7) The facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation.
- (8) The facility shall be kept free of litter.
- (9) The facility shall be secured from unauthorized entry and removal of material when the operator is not present.
- (10) Any permit issued by the City of San Diego shall be void if the facility does not obtain other required local and state permits or does not comply with the applicable regulations in the California Code of Regulations.
 - (i) Small and large construction and demolition (C&D) debris *recycling facilities* may be permitted with a Neighborhood Use Permit in the zones indicated with an “N” or a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.
 - (1) *Lot Size*
 - (A) A small C&D debris *recycling facility* may not exceed 4 acres.
 - (B) A large C&D debris *recycling facility* may exceed 4 acres.
 - (2) *Separation Distances*
 - (A) Small C&D debris *recycling facilities* shall be located at least 300 feet from residentially zoned property. Processing, grinding, crushing, and screening operations shall be set back at least 100 feet from the adjacent *property line*.
 - (B) Large C&D debris *recycling facilities* shall be located at least 500 feet from residentially zoned property. Processing, grinding, crushing, and screening operations shall be set back at least 200 feet from the adjacent *property line*.

- (3) Processing Capacity Limit
- (A) Small C&D debris *recycling facilities* shall not accept more than 400 tons of *recyclable construction and demolition debris* per day.
- (B) Large C&D debris *recycling facilities* shall not accept more than 2,500 tons of *recyclable construction and demolition debris* per day.
- (4) Power driven processing may be permitted if in compliance with the noise regulations in Section 142.0720.
- (5) Facilities shall not operate between the hours of 7:00 p.m. and 7:00 a.m.
- (6) Facilities shall be enclosed on all sides by a *solid fence* that is at least 6 feet in height.
- (7) Material shall not be stockpiled higher than 15 feet. Stockpiled material shall be located at least 30 feet from the adjacent *public right-of-way*.
- (8) Space shall be provided on the site for the anticipated peak customer load to circulate and deposit or load material or finished product.
- (9) The facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation.
- (10) The site shall be kept free of litter.
- (11) The site shall be secured from unauthorized entry and removal of material when attendants are not present.
- (12) Any permit issued by the City of San Diego shall be void if the facility does not obtain other required local and state permits or does not comply with regulations enforced by the local enforcement agency, the Air Pollution Control District, or other applicable regulatory agencies.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

§141.0621 Sidewalk Cafes, Streetaries, and Active Sidewalks

The sidewalk cafes, streetaries, and active sidewalks regulations establish requirements for outdoor dining and other uses located 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 located in a *street* space formerly dedicated to parking spaces that serves as an extension of an eating and drinking establishment; and active sidewalks are defined as the permanent extension of the curb into the *public right-of-way* to facilitate activation of the *public right-of-way* through recreational amenities, landscaped areas, seating areas, farmers market, *artworks* or outdoor dining. Sidewalk cafes, streetaries, and active sidewalks 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) A sidewalk cafe that provides a maximum of one row of tables and chairs within 4 feet 6 inches of the building façade, placed in a manner that does not block ingress or egress from the associated eating and drinking establishment, shall not be required to install a barrier in accordance with Section 141.0621(a)(1)(C).
- (C) If not designed in compliance with Section 141.0621(a)(1)(B), the area of a sidewalk cafe shall be delineated by a barrier consisting of railings, *fences*, or a combination of railings and *fences*, and planter boxes that are 3 feet in height or less. Solid walls are not permitted.
 - (i) The barrier may be either permanently installed or moveable. If it is moveable, it shall be affixed to the sidewalk while the sidewalk cafe is open for business.

(ii) A clear, transparent, shatterproof glass or similar material may be used on top of the 3-foot barrier to enclose the sidewalk cafe to minimize windy or cold climatic conditions. The height of the sidewalk cafe barrier plus the clear enclosure shall not exceed 5 feet.

(iii) *Awnings* or umbrellas may be used in conjunction with a sidewalk cafe, but shall not be used as a permanent roof or shelter over the sidewalk cafe area.

(D) Clear Path of Travel

(i) A clear path, free of all obstructions to the flow of pedestrian traffic, shall be provided in the *public right-of-way* and shall be maintained at all times. Obstructions include traffic signals or *signs*, light standards, parking meters, phone booths, bus stops, trash receptacles, benches, trees, gates that open outward beyond the perimeter of the sidewalk cafe, and similar objects.

(ii) The clear path shall be a paved sidewalk that is at least 5 feet wide, the width identified in the applicable adopted *land use plan*, or the width required by the applicable zone or planned district, whichever width is greater.

(iii) The clear path may meander from side to side to avoid obstructions, but shall maintain a continuous, common surface at least 3 feet in width that provides a direct path of travel past the sidewalk cafe.

(iv) The clear path shall be measured from the outermost point of the sidewalk cafe to the curb or to the nearest obstruction within the flow of pedestrian traffic, whichever is shorter;

(v) Recesses in the *building facade* shall not be used to satisfy the clear path requirement.

(E) Accessibility. A sidewalk cafe shall be designed and operated so that unsafe conditions are not created for the physically disabled, blind, or partially sighted.

- (i) The surface of a sidewalk cafe shall be level, and have a running slope and a cross slope that do not exceed 2 percent (1 unit vertical in 50 units horizontal).
 - (ii) A sidewalk cafe 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.
 - (iii) At least one wheelchair seating space shall be provided for each 20 seats, or portion thereof.
 - (iv) When multiple accessible seating spaces are provided, they shall be reasonably distributed and integrated within the area of the sidewalk cafe.
 - (v) Accessible wheelchair spaces shall have a minimum unobstructed maneuverability dimension of 30 inches in width by 48 inches in depth.
 - (vi) Access to designated wheelchair spaces shall be provided via an accessible path with not less than 36 inches unobstructed width.
- (F) An unobstructed path of ingress and egress travel with a minimum 4-foot width that leads occupants directly from exit doors to the *public right-of-way* shall be required for a sidewalk cafe and associated eating and drinking establishment.
- (G) No portion of a sidewalk cafe may be located within 8 feet of the entrance to a ground *floor* commercial use other than the entrance to the adjacent restaurant unless the property owners and first *floor* tenants of the affected commercial lease spaces provide a notarized letter of permission.
- (H) If *awnings* are attached to the main building, they shall be secured in accordance with the California Building Code and shall be subject to inspection by the Building Official prior to occupancy of a sidewalk cafe.
- (I) The interior of a sidewalk cafe shall consist solely of moveable furnishings, including moveable tables, chairs, and umbrellas.

- (J) Landscaping may be placed in moveable planters or planted in the ground inside a delineated sidewalk cafe area adjacent to the barrier.
 - (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) Parking for a sidewalk cafe portion of an eating and drinking establishment shall only be required if:
 - (i) The area of a sidewalk cafe is greater than 200 square feet;
 - (ii) The area of a sidewalk cafe exceeds 25 percent of the combined total of the *gross floor area* of the associated eating and drinking establishment and the area of the sidewalk cafe; and
 - (iii) A sidewalk cafe is located in the Parking Impact Overlay Zone.
- (2) Permit requirements
- (A) Prior to installation of any furniture or improvements in the *public right-of-way* and prior to operation of a sidewalk cafe, the *applicant* shall obtain a Public Right-of-Way Permit or Building Permit in accordance with Sections 129.0203 and 129.0702, and an Encroachment Maintenance and Removal Agreement in accordance with Section 129.0715. Violations of a Public Right-of-Way Permit or Building Permit shall be subject to the permit revocation procedures set forth in Chapter 12, Article 1, Division 3.
 - (B) The dimensions of a sidewalk cafe shall be delineated on a site plan and documented in the associated Public Right-of-Way Permit or Building Permit, as applicable.

- (C) Prior to occupancy of a sidewalk cafe, inspection shall be required in accordance with Section 129.0111, as applicable.
 - (D) An annual inspection of a sidewalk cafe shall be required to ensure compliance with the limited use regulations for sidewalk cafes.
- (3) Operational requirements
- (A) A sidewalk cafe shall only be used only for dining, drinking, and circulation, and shall operate only in conjunction with an adjacent eating and drinking establishment.
 - (B) A sidewalk cafe may provide either waiter/waitress service or self-service.
 - (C) The sidewalk within, and adjacent to, the sidewalk cafe shall be clean and free of litter at all times.
 - (D) Trash or storage areas shall not be located on or adjacent to the *public right-of-way*.
 - (E) Musical instruments or sound reproduction devices shall not be operated or used within a sidewalk cafe. For purposes of enforcement of Chapter 5, Article 9.5, the *property line* shall be considered the boundary of a sidewalk cafe.
 - (F) The hours of operation of a sidewalk cafe 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 sidewalk cafe after 10:00 p.m. Sunday through Thursday, and after 11:00 p.m. Friday through Saturday.
 - (G) *Smoking or vaping* is not permitted within a sidewalk cafe at any time. 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) A sidewalk cafe shall comply with all State of California Department of Alcoholic Beverage Control license requirements, as applicable.

- (I) Outdoor cooking and preparation of food within the *public right-of-way* is prohibited.
 - (J) Portable heaters, if provided, shall be located a minimum of 4 feet away from the exterior face of the building and from any combustible materials, including *architectural projections*, or in accordance with manufacturer recommendations, whichever is most restrictive.
 - (K) A copy of the approved Public Right-of-Way Permit or Building Permit, as applicable, for a sidewalk cafe shall be posted on the *premises* of the associated eating and drinking establishment.
- (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:
- (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.
 - (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:
 - (i) The width of the sidewalk;
 - (ii) The design and relationship of the sidewalk cafe to other existing or planned uses in the vicinity;
 - (iii) The amount of pedestrian use and the impact of the sidewalk cafe's location on pedestrian activity; and
 - (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 located adjacent to eating and drinking establishments at the following locations:

- (i) Within the curb lane on *streets* where on-street metered or unmetered parking spaces exist adjacent to the front of the eating and drinking establishment, or along an adjacent neighboring on-street metered or unmetered parking spaces with the written permission from the adjacent property owner stating the permission is valid for the term of the Encroachment Maintenance and Removal Agreement.
- (ii) At least 20 feet away from an intersection, *street* corner, *alley* or a driveway; and
- (iii) Along curbs painted yellow, or green, or non-painted curbs or motorcycle parking areas.

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

- (i) Along a *street* segment with a speed limit greater than 30 miles per hour.
- (ii) Along a *street* with a *street* classified as major or greater.
- (iii) Along a curb painted red, white, or blue.
- (iv) Within or adjacent to an *alley*.
- (v) Adjacent to a Metropolitan Transit System (MTS) stop or a bus lane.
- (vi) Within an existing bike lane or within a proposed bike lane project identified in any comprehensive bicycle plan or adopted *land use plan*.
- (vii) Within 5 feet of storm drain inlets or cleanouts.

- (viii) Over utility access panels, manhole covers, handholes, transformers, water meters or water valves.
- (ix) Within 5 feet of a fire hydrant and any emergency equipment.
- (x) Within 5 feet of any natural gas or electric utility facility, including the perimeter of any manholes, handholes or vaults, and any surface-level *structures* such as natural gas meters, monitors, pressure regulators, protection stations, poles, curbside electric meters, transformers or green utility boxes.

(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, an *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 term period, after which a new application may be submitted in accordance with Section 141.0621(b).
- (C) Removal of on-street parking spaces to construct streetaries shall comply with the following:
 - (i) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of a streetary.
 - (ii) Outside of Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for a streetary, except as provided in 141.0621(b)(2)(C)(i).

- (iii) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for a streetary, except as provided in 141.0621(b)(2)(C)(i).
- (iv) Within both the Coastal Overlay Zone and the Beach Impact Area of the Parking Impact Overlay Zone, all on-street parking removed to construct a streetary shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public either on the same *premises* as the business proposing the streetary, or off-premises through shared parking in accordance with Section 142.0545.
- (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) A streetary is subject to Development Impact Fees in accordance with Section 142.0640(b)(6).
- (G) Prior to issuance of a Public Right-of-Way Permit for a streetary, the *applicant* shall provide evidence of general liability insurance naming the City of San Diego as additional insured, which shall remain in effect during the operation of the streetary.
- (H) Alcohol, food, or beverages shall not be served or allowed 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 and the day prior to a City Holiday.
- (I) Streetaries located within 150 feet of an adjacent residential use shall not serve or allow alcohol, food, or beverages 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) Streetaries 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) Live entertainment is not permitted within a streetary unless a Conditional Use Permit is granted in accordance with Process Three and the Conditional Use Permit is in accordance with the provisions of Chapter 3, Article 3, Division 15. The Public Right-of-Way Permit holder for the streetary shall provide a noise impact analysis to the City for consideration before approval of the Conditional Use Permit. The noise impact analysis shall be prepared by a qualified acoustical engineer and shall evaluate noise and vibration impacts to the surrounding neighborhood. A Conditional Use Permit shall not be granted for live entertainment 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.
- (M) Outdoor cooking and food preparation within the streetary is prohibited.
- (N) Noise levels within the streetary shall comply with the sound level limits of the adjacent use of the eating or drinking establishment in accordance with Chapter 5, Article 9.5, Division 4.
- (O) The Gaslamp Quarter Planned District Design Guidelines shall apply to streetaries located within the Gaslamp Quarter Planned District.
- (P) The Public Right-of-Way Permit *permit holder* shall be responsible for maintaining the streetary. Maintenance shall include posting of the name, phone number, and email address of the *person* responsible for the streetary in a location visible from the *public right-of-way*, keeping the streetary free of litter, and preventing litter attributable to the streetary from entering adjacent properties within the *public right-of-way*.

- (Q) Streetaries shall remain open to public during all non-operational hours.

(3) Design Requirements

Streetaries shall be designed in accordance with the Spaces as Places Design Manual and 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 *street* travel lane.
- (C) A streetary shall provide a *setback* of at least 4 feet from adjacent vehicle 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) The accessible path of travel through the streetary shall be a paved sidewalk that is at least 5 feet wide, the width identified in the applicable adopted land use plan, or the width required by the applicable zone or planned district, whichever width is greater.
- (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 inch high railing shall be placed at the edge of the streetary to serve as a barrier from vehicular traffic.
 - (J) No horizontal or vertical *structure* shall be placed above 42 inches from the surface of the streetary except for stanchions needed to provide lighting.
 - (K) 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. The canopy of the umbrella shall be contained within the streetary and shall not protrude into the sidewalk, adjacent parking spaces, adjacent streetaries or the travel or bike lane.
 - (L) Solar powered lights shall be permitted but electrical lighting elements that contain wires that cross the clear path of travel shall not be permitted.
 - (M) The placement of the name and type of establishment on umbrellas is allowed. Other *signs* shall not be permitted on a streetary.
 - (N) Streetaries shall be designed in accordance with the Spaces as Places Design Manual.
 - (O) The Gaslamp Quarter Planned District Design Guidelines shall apply to streetaries located within the Gaslamp Quarter Planned District.
- (4) 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 of travel shall be a minimum of 60 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 of travel 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 surfaces shall not allow the passage of a sphere more than half an inch in diameter. Elongated openings shall be placed so that the long dimension is perpendicular to the dominant 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 may construct a terraced streetary with two or more decks.
 - (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 a transition between the sidewalk and streetary deck.
 - (v) Passage between terrace levels shall provide 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.

(5) 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 necessary.
- (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) Accessibility requirements.

(c) Limited Use Regulations for Active Sidewalks

(1) Location Requirement:

- (A) Active sidewalks shall be located along the curbside on *streets* where metered or unmetered parking exists.
- (B) Active sidewalks shall be located only on *streets* with a curb-to-curb width sufficient to accommodate a Class IV bicycle lane after installation of the active sidewalk.
- (C) Active sidewalks shall meet the locational requirement to the satisfaction of the City Engineer to ensure public health and safety.

(2) The following uses shall be permitted within an active sidewalk:

- (A) Recreational amenities, including landscaped and seating areas, in accordance with Section 129.0710(d).

- (B) *Artworks.*
 - (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 an active sidewalk, 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 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 on-street parking spaces to construct active sidewalks shall comply with the following:
 - (i) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of active sidewalks.
 - (ii) Outside of the Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for active sidewalks, except as provided in 141.0621(c)(3)(B)(i).
 - (iii) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for an active sidewalk, except as provided in 141.0621(c)(3)(B)(i).

- (iv) Within both the Coastal Overlay Zone and the Beach Parking Impact Area, all on-street parking removed to construct an active sidewalk shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public either on the same *premises* as the business proposing the active sidewalk, or off-premises through shared parking in accordance with Section 142.0545.
- (C) Prior to issuance of a Public Right-of-Way Permit for an active sidewalk, the *applicant* shall provide evidence of general liability insurance naming the City of San Diego as additional insured, which shall remain in effect during the operation of the active sidewalk.
- (D) Alcohol, food, or beverages shall not be served or allowed within the active sidewalk 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.
- (E) Active sidewalks located within 150 feet of an adjacent residential use shall not serve or allow alcohol, food or beverages within the active sidewalk 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 and the day prior to a City Holiday.
- (F) Live entertainment is not allowed within an active sidewalk unless a Conditional Use Permit is granted in accordance with Process Three and the Conditional Use Permit is in accordance with the provisions of Chapter 3, Article 3, Division 15. The Public Right-of-Way Permit *permit holder* for the active sidewalk shall provide a noise impact analysis to the City for consideration before approval of the Conditional Use Permit. The noise impact analysis shall be prepared by a qualified acoustical engineer and shall evaluate noise and vibration impacts to the surrounding neighborhood. A Conditional Use Permit shall not be granted for live entertainment 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.
- (G) All programming along active sidewalks shall be in accordance with the Special Events Ordinance, Chapter 2, Article 2, Division 40.

- (H) *Smoking and vaping* shall not be permitted within the active sidewalk. 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.
 - (I) Active sidewalks shall comply with all State of California Department of Alcoholic Beverage Control license requirements, as applicable.
 - (J) Active sidewalks shall comply with the sound level limits of the adjacent use in accordance with Chapter 5, Article 9.5, Division 4.
 - (K) The Public Right-of-Way Permit *permit holder* shall be responsible for maintaining the active sidewalk. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the *person* responsible for the active sidewalk in a location visible from the *public right-of-way*, keeping the active sidewalk free of litter, and preventing litter attributable to the active sidewalk from entering adjacent properties and the *public right-of-way*.
- (4) Design Requirements:
- Active sidewalks shall be designed in accordance with the Spaces as Places Design Manual and meet the following regulations to the satisfaction of the City Engineer:
- (A) Permanent expansion of the curb line for an active sidewalk 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 length of an active sidewalk shall be at least 54 feet.
 - (C) The design and placement of *street* furniture, trees, and plantings on an active sidewalk 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.
 - (D) The placement of the name and type of the associated establishment on umbrellas shall be permitted. Other *signs* shall not be permitted on an active sidewalk.

- (E) Active sidewalks shall be designed in accordance with current Storm Water standards.
 - (F) Active sidewalks shall be designed in accordance with the Spaces as Places Design Manual, Street Design Manual, and all applicable engineering standards.
 - (G) The Gaslamp Quarter Planned District Design Guidelines shall apply to active sidewalks within the Gaslamp Quarter Planned District.
- (5) Active sidewalks shall comply with all State and Federal accessibility requirements.
- (6) The exclusive use of a portion of an active sidewalk for outdoor dining, including fixed or moveable furniture placed closer to the adjacent eating and drinking establishment or closer to the adjacent travel lane within the active sidewalk, is allowed so long as:
- (A) The accessible path of travel is a paved sidewalk that is at least 5 feet wide, the width identified in the applicable adopted land use plan, or the width required by the applicable zone or planned district, whichever width is greater;
 - (B) 42-inch-high railing is provided along the active sidewalk facing the travel lane when seating for outdoor dining is placed adjacent to the *street* travel lane;
 - (C) No horizontal or vertical *structure* is placed above 42 inches from the surface of the active sidewalk except for stanchions needed to provide lighting; and
 - (D) The portion of the active sidewalk used for outdoor dining remains open to public during all non-operational hours.
- (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 necessary.
- (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) Accessibility requirements.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

(Amended 10-2-2014 by O-20408 N.S.; effective 11-1-2014.)

(Retitled from “Sidewalk Cafes” to “Sidewalk Cafes, Streetaries, and Active Sidewalks” and amended 11-23-2021 by O-21391 N.S.; effective 1-6-2022.)

(Amended 6-12-2023 by O-21655 N.S.; effective 8-10-2023.)

§141.0622 Sports Arenas and Stadiums

Sports arenas and stadiums are *structures* for sporting, entertainment and assembly uses. Sports arenas and stadiums may be permitted with a Conditional Use Permit decided in accordance with Process Five in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Bulk and Scale

- (1) The design of the *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.
- (2) The design of the *structure* shall incorporate architectural elements that help to transition building scale if the *structures* are located adjacent to *development* that is smaller in scale with less intensity as identified in the applicable *land use plan*.

(b) Access

- (1) Pedestrian paths shall connect to *public rights-of-way*, transit stations, transit stops, plazas, or other public spaces.

- (2) The *development* shall provide Transit and Active Transportation Infrastructure as outlined in Community Plan Mobility Elements listed in the Land Development Manual Appendix Q.
- (c) Parking
 - (1) At *grade* and above *grade* parking *structures* shall be *screened* with landscaping, building wraps, or an architectural *screen* so they are not visible from the *public rights-of-way*, private drives, plazas, or other public spaces.
 - (2) Parking facilities may provide both on-site and off-site *shared parking* to minimize the number of on-site parking facilities.
- (d) Storage, Service, and Loading Areas
 - (1) All storage, service, and loading areas shall be located on the site so that they are not visible, or shall be *screened* so that they are not visible, from adjacent *development*, *public rights-of-way*, private driveways, plazas, or other public spaces.
- (e) Sports arenas and stadiums included as part of an adopted specific plan are exempt from the requirement to obtain a Conditional Use Permit if they comply with all the regulations in Section 141.0622(a) through (d).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)

[Editors Note: Amendments as adopted by O-21836 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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§141.0623 Theaters That Are Outdoor or over 5,000 Square Feet in Size

Theaters that are outdoor or over 5,000 square feet in size may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property. Within the beach impact area of the Parking Impact Overlay Zone, off-street parking shall be provided at a ratio not less than one parking space for every three fixed seats or one space for every 21 sq ft of gross floor area where there are no fixed seats.

- (b) Hours of operation shall be limited so that neighboring *development* is not disturbed by noise and lights.
- (c) A litter control plan shall be required to keep the facility and adjacent property free of litter.
- (d) All storage, service, and repair areas shall be located on the site so that they are not visible from adjacent *development* and *public rights-of-way*.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§141.0624 Urgent Care Facilities

Urgent care facilities that are designed or used to provide medical services on a walk-in or emergency care basis that operate outside of standard business hours. Urgent care facilities 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 Section 141.0624(a).

- (a) Limited Use Regulations
 - (1) Ambulance services are not permitted.
 - (2) Overnight patients are not permitted.
 - (3) Urgent care facilities located adjacent to residentially zoned property shall remain closed between the hours of 12:00 midnight and 6:00 a.m.
 - (4) Within the beach impact area of the Parking Impact Overlay Zone, off-street parking shall be provided at a ratio of no less than one parking space for every 250 square feet of *gross floor area*.

(Added 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)

[Editors Note: Amendments as adopted by O-21836 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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§141.0625 Veterinary Clinics and Animal Hospitals

Veterinary clinics and animal hospitals are permitted as a limited use in the zones indicated with an “L” and may be permitted with a Neighborhood Use Permit decided in accordance with Process Two in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) General Rules

- (1) Veterinary clinics and animal hospitals are not permitted in agricultural zones in *Proposition A Lands*, except as an accessory use within a zoological park, or within *floodplains* located in the Coastal Overlay Zone.
- (2) Veterinary clinics and animal hospitals shall be operated and maintained in accordance with the health and sanitation regulations for health regulated businesses in Chapter 4, Article 2, Division 7 (Animals and Poultry).
- (3) Veterinary clinics and animal hospitals shall be maintained in a sanitary condition to minimize the impacts of odors on surrounding *development*.

(b) Limited Use Regulations

- (1) Veterinary clinics and animal hospitals shall not be located on a *premises* that is identified as Prime Industrial Land in a *land use plan*.
- (2) Outdoor exercise areas are not permitted as a limited use, except as an accessory use within a zoological park.
- (3) Off-street parking shall be provided in accordance with Table 142-05E.
- (4) Deviations from Section 141.0625(b) may be permitted with a Neighborhood Use Permit decided in accordance with Process Two.

(c) Neighborhood Use Permit Regulations

- (1) Noise emanating from the facility shall be kept at minimum levels through the following methods:
 - (A) Limitations on the number of animals permitted in exterior areas at any one time;

- (B) Limitations on the hours that animals are permitted in exterior areas;
 - (C) Locating exterior boarding and exercise areas on those portions of the site where noise impacts on surrounding *development* will be minimized;
 - (D) The use of walls or *fences* to minimize noise impacts to surrounding *development*; and
 - (E) Sound-proofing of interior kennel areas.
- (2) Exterior boarding, training, and exercise facilities shall be *screened* from adjacent *development* by a 6-foot *solid fence* or wall.

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

(Amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006; renumbered from 141.0624 to 141.0625 with no change in text.)

(Amended 4-8-2008 by O-19734 N.S.; effective 5-8-2008.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 11-16-2012 by O-20216 N.S.; effective 12-16-2012.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)

§141.0626 Zoological Parks

Zoological parks may be permitted with a Conditional Use Permit decided in accordance with Process Five in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Zoological parks are not permitted within *floodplains* located in agriculturally zoned areas of the Coastal Overlay Zone.
- (b) *Structures* and parking areas shall be placed on the site so that they are either located away from *public rights-of-way* or *screened* by solid fencing or landscaping from view from *public rights-of-way*.
- (c) Off-street parking shall be sufficient to serve the facility without impacting adjacent or nearby property.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006; renumbered from 141.0625 to 141.0626 with no change in text.)

§141.0627 Adult Day Care Facility

Adult Day Care Facilities are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Table in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) *Adult Day Care Facilities* are not permitted on sites designated as Prime Industrial Lands in a *land use plan*.
- (2) *Adult Day Care Facilities* are not permitted in agricultural zones in Proposition A Lands.
- (3) *Adult Day Care Facilities* shall comply with all applicable state laws.
- (4) *Adult Day Care Facilities* are not permitted within 1,000 feet of any known business that:
 - (A) Has or is required to have a permit from the County of San Diego Hazardous Materials Division, excluding underground fuel storage tanks, and handles regulated substances above the Threshold Quantity as listed in the California Code of Regulations, Title 19 Section 2770.5;
 - (B) Handles compressed flammable gases in excess of 1,500 pounds.
- (5) The 1,000 foot separation distance shall be measured from the *property line* of the proposed *Adult Day Care Facility* to the use, storage, or handling areas for the regulated substances. Businesses may satisfy the separation requirements on-site. The *Adult Day Care Facility* operator has the burden of proof of demonstrating compliance with the separation requirement.
- (6) Within the Coastal Overlay Zone, an *Adult Day Care Facility* shall be permitted only on previously-developed sites that are not developed with open space or agricultural uses as identified in Section 131.0112.

(“*Adult Day Care Facility*” added 2-1-2021 by O-21288 N.S.; effective 3-3-2021.)

§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* is 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 posting of the name, phone number, and email address of the party responsible for the outdoor dining area in a location visible from the *public right-of-way*, keeping the outdoor dining area free of litter, and preventing litter attributable to the outdoor dining area from entering 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 required *off-street parking spaces* to construct outdoor dining on private property shall comply with the following:
 - (A) *Off-street parking spaces* that are accessible in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of outdoor dining on private property.
 - (B) Outside of a *Sustainable Development Area*, *off-street parking spaces* shall not be removed for the construction of outdoor dining on private property unless they are in excess of the minimum number of parking spaces required by Chapter 14, Article 2, Division 5.
 - (C) Within a *Sustainable Development Area* and outside of the Coastal Overlay Zone, removal of *off-street parking spaces* shall not be the basis of denial of the permit for outdoor dining on private property, except as provided in 141.0628(a)(5)(A).

- (D) Within both a *Sustainable Development Area* and the Coastal Overlay Zone, the following regulations apply:
- (i) Outside of the Beach Impact Area of the Parking Impact Overlay Zone, *off-street parking spaces* in excess of the minimum number of spaces required by Chapter 14, Article 2, Division 5 may be removed for the construction of outdoor dining on private property. All parking required by Chapter 14, Article 2, Division 5 that is removed for the construction of outdoor dining on private property shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public through shared parking in accordance with Section 142.0545.
- (ii) Within the Beach Impact Area of the Parking Impact Overlay Zone, all *off-street parking spaces* removed to construct outdoor dining on private property shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public through *shared parking* in accordance with Section 142.0545.
- (6) The hours of operation of the outdoor dining 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 and the day prior to a City Holiday.
- (7) Outdoor dining located within 150 feet of an adjacent residential use shall not serve or allow alcohol, food, or beverages 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) Outdoor dining shall comply with the sound level limits of the associated eating and drinking establishment in accordance with Chapter 5, Article 9.5, Division 4.

(9) Live entertainment is not allowed within outdoor dining areas unless a Conditional Use Permit is granted in accordance with Process Three and provided that the Conditional Use Permit is in accordance with the provisions of Chapter 3, Article 3, Division 15. The Building Permit *permit holder* for Outdoor Dining area shall provide a noise impact analysis to the City for consideration before approval of the Conditional Use Permit. The noise impact analysis shall be prepared by a qualified acoustical engineer and shall evaluate noise and vibration impacts to the surrounding neighborhood. A Conditional Use Permit shall not be granted for live entertainment 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.

(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*, and emergency access in accordance with the California Fire Code, shall apply.

(*“Outdoor Dining on Private Property” added 11-23-2021 by O-21391 N.S.; effective 1-6-2022.*)

(Amended 6-12-2023 by O-21655 N.S.; effective 8-10-2023.)

(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)

[Editors Note: Amendments as adopted by O-21836 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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§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 pedestrians will travel by foot or bicycle. Within the Coastal Overlay Zone, promenades shall not be permitted along *streets* that are adjacent to exclusively residential uses. A promenade initiated by the City shall not be subject to the additional requirements of this Section.

- (a) The following uses and other similar uses shall be permitted within a promenade:
 - (1) Recreational amenities in accordance with Section 129.0710(d).
 - (2) *Artworks.*

- (3) Outdoor Dining in accordance with Section 141.0621.
 - (4) Farmers Markets in accordance with Section 141.0503.
- (b) Permit Requirements:
- (1) The creation of a promenade may be initiated by any *applicant*.
 - (A) For a promenade initiated by a public 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. 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) 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) 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.
 - (C) For a promenade where the *public right-of-way* lies within one ownership for the entirety of the promenade, the *applicant* shall obtain a *public right-of-way* vacation in accordance with Chapter 12, Article 5, Division 9 prior to installation of any furniture or improvements in the *public right-of-way* and prior to operation of a promenade.
 - (2) For promenades that remove on-street parking spaces the following shall apply:
 - (A) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of promenades.

- (B) Outside of Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for promenades, except as provided in 141.0629(b)(2)(A).
 - (C) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way permit for promenade, except as provided in 141.0629(b)(2)(A).
 - (D) Within both the Coastal Overlay Zone and the Beach Parking Impact Area, all on-street parking removed to construct a promenade shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public either on the same *premises* as the business(es) proposing the promenade, or *off-premises* through shared parking in accordance with Section 142.0545.
- (3) Full access for emergency service vehicles shall be provided at all times to ensure public health and safety to the satisfaction of the City Engineer.
 - (4) All programming of activities within the promenade shall be in accordance with the Special Events Ordinance, Chapter 2, Article 2, Division 40.
 - (5) *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.
 - (6) A promenade shall comply with all State of California Department of Alcoholic Beverage Control license requirements, as applicable.
 - (7) The promenade shall comply with the sound level limits of adjacent uses in accordance with Chapter 5, Article 9.5, Division 4.
 - (8) The Gaslamp Quarter Planned District Design Guidelines shall apply to a promenade located within the Gaslamp Quarter Planned District.

- (9) The Public Right-of-Way Permit *permit holder* shall be responsible for maintaining the promenade. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the *person* responsible for the promenade in a location visible from the *public right-of-way*, keeping the promenade area free of litter, and preventing litter attributable to the promenade from entering adjacent properties within the *public right-of-way*.
- (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 the name and type of the associated 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 accessibility guidelines.
 - (4) The design of a promenade shall be in accordance with current storm water standards.
 - (5) Promenades shall be designed in accordance with the Spaces as Places Design Manual.
 - (6) The Gaslamp Quarter Planned District Design Guidelines shall apply to a promenade located within the Gaslamp Quarter Planned District.
- (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 11:00 p.m. Friday through Saturday;
 - (2) Outdoor dining within 150 feet of an adjacent residential use shall not serve or allow alcohol, food, or beverages 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; and
 - (3) The portion of the promenade used for outdoor dining remains open to public during all non-operational hours.

(“Promenade” added 11-23-2021 by O-21391 N.S.; effective 1-6-2022.)
(Amended 6-12-2023 by O-21655 N.S.; effective 8-10-2023.)