

ORDINANCE NUMBER O- 20928 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 22 2018

ITEM # 52
5/15/18

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 113.0103; AMENDING CHAPTER 12, ARTICLE 3, DIVISION 4 BY AMENDING SECTIONS 123.0402 AND 123.0406; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0710; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 131.0222; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 131.0322; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 131.0422; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTIONS 131.0522 AND 131.0531; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY ADDING NEW SECTION 141.0421; ALL RELATING TO PLACEMAKING IN THE PUBLIC RIGHT-OF-WAY AND ON PRIVATE PROPERTY.

WHEREAS, “placemaking” is a planning concept that refers to creating spaces that serve the needs of neighborhoods by enhancing streetscapes and allowing creative uses of public right-of-way or private property, particularly of land that is unused or underused, in order to create more vibrant and livable communities; and

WHEREAS, community-based organizations operating within the City of San Diego have expressed interest in creating placemaking projects, including, for example, outdoor plazas where individuals may gather to rest and converse and landscaped areas and decorative lighting that enhance the streetscape and promote pedestrian activity; and

WHEREAS, the Economic Development Department reports that many of these organizations have indicated that they would have better success implementing such projects if the San Diego Municipal Code (Municipal Code) contained specific regulations for such projects; and

WHEREAS, this ordinance establishes and clarifies the regulations and permit processing rules that apply to placemaking projects to allow for a greater degree of certainty for City staff and project applicants, and to reduce some of the cost and logistical barriers to their implementation, while maintaining the existing character of the City's communities; and

WHEREAS, a placemaking project that includes elements governed by other laws and regulations will remain subject to those laws and regulations; for example, a project that is subject to separately regulated use regulations will be required to meet those regulations and a project that encroaches into the public right-of-way will be required to meet the requirements for providing an Encroachment Maintenance and Removal Agreement in accordance with the specifications set forth in Municipal Code section 129.0715; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 11, Article 3, Division 1 of the San Diego Municipal Code is amended by amending section 113.0103, to read as follows:

§113.0103 Definitions

Abutting property through Permit holder [No change in text.]

Placemaking means the temporary use of *public right-of-way* and private property that activates streetscapes by enhancing the pedestrian experience and providing neighborhood-serving activities, experiences, or spaces and includes temporary, small-scale *development* specifically designed to support that temporary use.

Projects that may qualify as *placemaking* uses include, but are not limited to, those that provide areas for pedestrians to briefly rest (*e.g.*, plazas, shade structures, and benches), promote the use of underutilized space (*e.g.*, landscaping and decorative lighting), and improve and promote pedestrian activity and other uses of the public *right-of-way* (*e.g.*, bicycle racks and refuse containers).

Planned Urbanized Communities through Yard [No change in text.]

Section 2. That Chapter 12, Article 3, Division 4 of the San Diego Municipal Code is amended by amending sections 123.0402 and 123.0406, to read as follows:

§123.0402 When a Temporary Use Permit is Required

A Temporary Use Permit is required for the following uses:

- (a) [No change in text.]
- (b) Temporary public assembly and entertainment uses; ~~and~~
- (c) *Wireless communications facilities* under the following conditions:
 - (1) [No change in text.]
 - (2) Except on *premises* containing a residential use, where an emergency arises that is not the result of any act of the *wireless communication facility* provider and is otherwise determined by the City Manager, in his sole discretion, to be an emergency; and
- (d) *Placemaking* on private property in accordance with Section 141.0421.

§123.0406 Expiration of a Temporary Use Permit

The City Manager shall set an expiration date for each Temporary Use Permit. For retail sales related to seasonal activities, temporary public assembly, and entertainment uses, the expiration date shall not be later than 30 days after the Temporary Use Permit's effective date. For *wireless communication facilities*, the expiration date shall not be later than 180 days after the Temporary Use Permit's effective date. For *placemaking* on private property, the expiration date shall not be later than five years after the Temporary Use Permit's effective date.

Section 3. That Chapter 12, Article 9, Division 7 of the San Diego Municipal Code is amended by amending section 129.0710, to read as follows:

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

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

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

(d) Notwithstanding Sections 129.0710(a)-(d), a *development permit* is not required prior to issuance of a Public Right-of-Way Permit for *placemaking* in the *public right-of-way* subject to the following regulations:

- (1) Applicants proposing a *placemaking* project in the *public right-of-way* shall demonstrate to the satisfaction of the City Manager that the project constitutes a lawful use of the *public right-of-way*.
- (2) Written permission from the *record owner* of the property underlying the *public right-of-way* is required.
- (3) If the *placemaking* project includes the temporary removal of one or more parking spaces to accommodate the project, the City Manager may approve the temporary removal as part of the Public Right-of-Way Permit only in accordance with the procedures described in Municipal Code section 86.0104, except that compliance with the Angle Parking Standards shall not be required unless otherwise applicable, and that, in no case shall the City Manager approve temporary removal of parking for a *placemaking*

project that results in temporary removal of parking on that segment of the street in excess of 25 percent of the total number of parking spaces available within that segment.

- (4) The term of the Public Right-of-Way Permit shall not exceed five years. The term shall not be limited in accordance with Municipal Code section 129.0750 and shall not be eligible for an extension of time pursuant to Municipal Code section 129.0751. At the expiration of the term, the *placemaking* project shall be removed and the *permit holder* shall return the *public right-of-way* property to its original condition, to the satisfaction of the City Manager. Removal shall not be required if a new Public Right-of-Way Permit is obtained prior to its expiration.
- (5) The *permit holder* shall be responsible for maintaining the *placemaking* project. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the party responsible for the *placemaking* project in a location visible from the *public right-of-way*, keeping the *placemaking* project area free of litter, and preventing litter attributable to the *placemaking* project from occurring on adjacent properties.
- (6) A *placemaking* use that contains elements governed by other laws and regulations shall also be subject to those laws and regulations.
- (7) The *placemaking* project shall not occur in an Industrial Base Zone or a Residential-Single Unit (RS) Zone.

- (8) The *placemaking* project shall not include commercial services, retail, or assembly and entertainment uses as *accessory uses*.
- (9) The *placemaking* project shall allow for safe and efficient visibility and circulation for motor vehicle users and other users of the *public right-of-way*, including bicyclists and pedestrians, and shall not impede the safe use of parking spaces or travel lanes in the *public right-of-way*, as determined by the City Engineer.

Section 4. That Chapter 13, Article 1, Division 2 of the San Diego Municipal Code is amended by amending section 131.0222, to read as follows:

§131.0222 Use Regulations Table for Open Space Zones

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

Legend for Table 131-02B

[No change in text.]

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

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones				
	1st & 2nd >>	OP-	OC-	OR ⁽¹⁾ -	OF ⁽¹¹⁾ -	
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1	2
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]		[No change in text.]				
<i>Placemaking</i> on Private Property		L	L	L	L	L
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]				

Footnotes for Table 131-02B [No change in text.]

Section 5. That Chapter 13, Article 1, Division 3 of the San Diego Municipal Code is amended by amending section 131.0322, to read as follows:

§131.0322 Use Regulations Table for Agricultural Zones

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

Legend for Table 131-03B

[No change in text.]

**Table 131-03B
Use Regulations Table for Agricultural Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]	[No change in text.]				
<i>Placemaking</i> on Private Property	L		L		
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]				

Footnotes for Table 131-03B [No change in text.]

Section 6. That Chapter 13, Article 1, Division 4 of the San Diego Municipal Code is amended by amending section 131.0422, to read as follows:

§131.0422 Use Regulations Table for Residential Zones

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

Legend for Table 131-04B

[No change in text.]

Table 131-04B
Use Regulations Table for Residential Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																						
	1st & 2nd >>	RE-	RS-														RX-		RT-					
3rd >>	1-	1-														1-		1-						
4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4	5
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]	[No change in text.]																							
<i>Placemaking on Private Property</i>	L	L														L		L						
Institutional, Separately Regulated Institutional Uses, Satellite <i>Antennas</i> through <i>Signs</i>, Separately Regulated <i>Signs</i> Uses, Theater <i>Marquees</i> [No change in text.]	[No change in text.]																							

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
	1st & 2nd >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]		[No change in text.]												
<i>Placemaking</i> on Private Property		L		L		L		L		L		L		
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]												

Footnotes for Table 131-04B [No change in text.]

Section 7. That Chapter 13, Article 1, Division 5 of the San Diego Municipal Code is amended by amending sections 131.0522 and 131.0531, to read as follows:

§131.0522 Use Regulations Table for Commercial Zones

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

Legend for Table 131-05B

[No change in text.]

Table 131-05B
Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones															
	1st & 2nd >>	CN ⁽¹⁾ -					CR-		CO-					CV-		CP-	
	3rd >>	1-					1-	2-	1-	2-	3-	1-	1-				
	4th >>	1	2	3	4	5	1	1	1	2	1	2	1	2	1	2	1
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]	[No change in text.]																
<i>Placemaking on Private Property</i>	L		L		L	L	L	L	L	L	L	L	L				
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]																

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																								
	1st & 2nd >>	CC-																								
	3rd >>	1-				2-				3-				4-				5-								
	4th >>	1	2	3	1	2	3	4	5	4	5	6	7	8	9	1	2	3	4	5	6	1	2	3	4	5
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]	[No change in text.]																									
<i>Placemaking on Private Property</i>	L				L				L				L				L									
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]																									

Footnotes for Table 131-05B [No change in text.]

§131.0531 Development Regulations Tables for Commercial Zones

The following development regulations apply in each of the commercial zones as shown in Tables 131-05C, 131-05D, and 131-05E.

- (a) CN Zones

**Table 131-05C
Development Regulations for CN Zones**

Development Regulations [See Section 131.0530 for Development Regulations of Commercial Zones]	Zone Designator	Zones				
	1st & 2nd >>	CN-				
	3rd >>	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5
Max Permitted Residential Density⁽¹⁾ through Lot Dimensions , Min <i>Lot</i> Depth (ft) [No change in text.]		[No change in text.]				
Setback Requirements⁽⁵⁾		[No change in text.]				
Setback Requirements , Min Front <i>Setback</i> (ft) through Visibility Area [See Section 113.0273] [No change in text.]		[No change in text.]				

Footnotes for Table 131-05C

¹ through ⁴ [No change in text.]

⁵ *Placemaking* on private property shall not be subject to *setback* regulations, in accordance with Section 141.0421.

- (b) CR, CO, CV, and CP Zones

Table 131-05D
Development Regulations for CR, CO, CV, CP Zones

Development Regulations	Zone Designator	Zones									
		CR-		CO-						CV-	
[See Section 131.0530 for Development Regulations of Commercial Zones]	1st & 2nd >>	1-	2-	1-		2-		3-		1-	1-
	3rd >>	1	1	2	1-	2-	1	2	1	2	1
	4th >>	1	1	2	1-	2-	1	2	1	2	1
Max Permitted Residential Density⁽¹⁾ through Lot Dimensions, Min Lot Depth (ft) [No change in text.]		[No change in text.]									
Setback Requirements⁽⁶⁾		[No change in text.]									
Setback Requirements, Min Front Setback (ft) through Max Structure Height (ft) [No change in text.]		[No change in text.]									
Min Lot Coverage (%)⁽⁶⁾		[No change in text.]									
Max Floor Area Ratio through Visibility Area [See Section 113.0273]		[No change in text.]									

Footnotes for Table 131-05D

¹ through ⁵ [No change in text.]

⁶ *Placemaking* on private property shall not be subject to *setback* or minimum *lot coverage* regulations, in accordance with Section 141.0421.

(c) CC Zones

Table 131-05E
Development Regulations for CC Zones

Development Regulation [See Section 131.0530 for Development Regulations of Commercial Zones]	Zone Designator	Zones															
	1st & 2nd >>	CC-															
	3rd >>	1-	2-	4-	5-	1-	2-	4-	5-	1-	2-	4-	5-	2-	3-	4-	5-
	4th >>	1			2			3			4						
Max Permitted Residential Density⁽¹⁾ through Lot Dimensions, Max Lot Depth (ft) [No change in text.]	[No change in text.]																
Setback Requirements⁽⁶⁾																	
Setback Requirements, Min Front Setback (ft) through Max Structure Height (ft) [No change in text.]	[No change in text.]																
Min Lot Coverage (%)⁽⁶⁾	[No change in text.]																
Max Floor Area Ratio through Visibility Area [See Section 113.0273] [No change in text.]	[No change in text.]																

Development Regulation [See Section 131.0530 for Development Regulations of Commercial Zones]	Zone Designator	Zones									
	1st & 2nd >>	CC									
	3rd >>	2-	3-	4-	5-	3-	4-	5-	3-	3-	3-
	4th >>	5			6			7	8	9	
Max Permitted Residential Density⁽¹⁾ through Lot Dimensions, Max Lot Depth (ft) [No change in text.]	[No change in text.]										
Setback Requirements⁽⁶⁾											
Setback Requirements, Min Front Setback (ft) through Max Structure Height (ft) [No change in text.]	[No change in text.]										
Min Lot Coverage (%)⁽⁶⁾	[No change in text.]										
Max Floor Area Ratio through Visibility Area [See Section 113.0273] [No change in text.]	[No change in text.]										

Footnotes for Table 131-05E

¹ through ⁵ [No change in text.]

⁶ *Placemaking* on private property shall not be subject to *setback* or minimum *lot coverage* regulations, in accordance with Section 141.0421.

Section 8. That Chapter 13, Article 1, Division 6 of the San Diego Municipal Code is amended by amending section 131.0622, to read as follows:

§131.0622 Use Regulations Table for Industrial Zones

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

Legend for Table 131-06B

[No change in text.]

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

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones									
	1st & 2nd >		IP-			IL-			IH-		IS-	IBT-
	3rd >>		1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>		1	1	1	1	1	1	1	1	1	1
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]	[No change in text.]											
<i>Placemaking on Private Property</i>	-	-	-	-	-	-	-	-	-	-	-	
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]											

Footnotes for Table 131-06B [No change in text.]

Section 9. That Chapter 14, Article 1, Division 4 of the San Diego Municipal Code is amended by adding new section 141.0421, to read as follows:

§141.0421 Placemaking on Private Property

Placemaking on private property 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) Written permission from the *record owner* of the property is required.

- (b) *Off-street parking spaces* are not required, but may be permitted as an *accessory use* to serve the *placemaking* use if the square footage designated for the *off-street parking spaces* does not exceed 25 percent of the total square footage designated for the *placemaking* use.
- (c) A Temporary Use Permit shall be obtained in accordance with Section 123.0402.
- (d) At the expiration of the term of the Temporary Use Permit, the *placemaking* project shall be removed and the *permit holder* shall return the *premises* to its original condition, to the satisfaction of the City Manager. Removal shall not be required if a new Temporary Use Permit is obtained prior to its expiration.
- (e) The Temporary Use Permit *permit holder* shall be responsible for maintaining the *placemaking* project. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the party responsible for the *placemaking* project in a location visible from the *public right-of-way*, keeping the *placemaking* project area free of litter, and preventing litter attributable to the *placemaking* project from occurring on adjacent properties.
- (f) A *placemaking* project shall only occur on *premises* that are vacant at the time the Temporary Use Permit application is submitted.
- (g) A *placemaking* use that also qualifies as another separately regulated use shall also be subject to those separately regulated use regulations. A *placemaking* use that contains elements governed by other laws and regulations shall also be subject to those laws and regulations.

- (h) *Placemaking* on private property in Commercial Base Zones shall also be subject to the following regulations:
- (1) The *placemaking* project shall not include retail or commercial services uses except as *accessory uses* to serve the *placemaking* use, and shall not operate except between the hours of 7:00 a.m. and 10:00 p.m., unless a separate Temporary Use Permit is obtained.
 - (2) Commercial Base Zone regulations for *setbacks* and minimum *lot coverage* shall not apply.
- (i) *Placemaking* on private property in Open Space and Residential Base Zones shall not include commercial services or assembly and entertainment uses as *accessory uses*.

Section 10. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 11. That prior to becoming effective, this ordinance shall be submitted to the San Diego County Regional Airport Authority (SDCRAA) for a consistency determination.

That if the SDCRAA finds this ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station (MCAS) Miramar, Gillespie Field, Montgomery Field, and Brown Field Airports (collectively, Airports), this ordinance shall take effect and be in force on the thirtieth day from and after the finding of consistency, except that the provisions of this ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego

Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

That if the SDCRAA determines that this ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCPs for the Airports, the ordinance shall be submitted to the City Council for reconsideration.

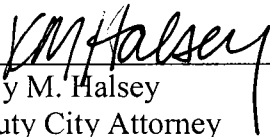
That if the SDCRAA determines that this ordinance is conditionally consistent with the ALUCPs for the Airports, but that consistency is subject to proposed modifications, the City Council may amend this ordinance to accept the proposed modifications, and this ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance as amended inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

That a proposed decision by the City Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the SDCRAA, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports. The City Council shall hold a second hearing not less than 45 days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

That if the City Council makes a final decision to overrule a determination of inconsistency, this ordinance shall take effect and be in force on the thirtieth day from and after

that final decision, except that the provisions of this ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

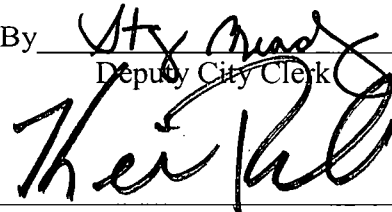
APPROVED: MARA W. ELLIOTT, City Attorney

By 
Keely M. Halsey
Deputy City Attorney

KMH:als
10/04/2017
10/12/2017 Cor. Copy
04/02/2018 Cor. Copy.2
04/16/2018 Cor. Copy.3
Or.Dept: Economic Dev't
Doc. No.: 1534814_6

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAY 15 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk
KEVIN L. FAULCONER, Mayor

Approved: 5/21/18
(date)

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

"The date of final passage is May 22, 2018, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval."

Passed by the Council of The City of San Diego on MAY 15 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 22 2018

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Sty Brady*, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 17 2018, and on MAY 22 2018

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Sty Brady*, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>20928</u>

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~
NEW LANGUAGE: Double Underline

ITEM# 52
5/15/18

ORDINANCE NUMBER O- _____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 113.0103; AMENDING CHAPTER 12, ARTICLE 3, DIVISION 4 BY AMENDING SECTIONS 123.0402 AND 123.0406; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0710; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 131.0222; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 131.0322; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 131.0422; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTIONS 131.0522 AND 131.0531; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY ADDING NEW SECTION 141.0421; ALL RELATING TO PLACEMAKING IN THE PUBLIC RIGHT-OF-WAY AND ON PRIVATE PROPERTY.

§113.0103 **Definitions**

Abutting property through Permit holder [No change in text.]

Placemaking means the temporary use of public right-of-way and private property that activates streetscapes by enhancing the pedestrian experience and providing neighborhood-serving activities, experiences, or spaces and includes temporary, small-scale development specifically designed to support that temporary use. Projects that may qualify as placemaking uses include, but are not limited to, those that provide areas for pedestrians to briefly rest (e.g., plazas, shade structures, and benches), promote the use of underutilized space (e.g., landscaping

and decorative lighting), and improve and promote pedestrian activity and other uses of the public right-of-way (e.g., bicycle racks and refuse containers).

Planned Urbanized Communities through Yard [No change in text.]

§123.0402 When a Temporary Use Permit is Required

A Temporary Use Permit is required for the following uses:

- (a) [No change in text.]
- (b) Temporary public assembly and entertainment uses; ~~and~~
- (c) *Wireless communication facilities* under the following conditions:
 - (1) [No change in text.]
 - (2) Except on *premises* containing a residential use, where an emergency arises that is not the result of any act of the *wireless communication facility* provider and is otherwise determined by the City Manager, in his sole discretion, to be an emergency; ~~and~~
- (d) *Placemaking on private property in accordance with Section 141.0421.*

§123.0406 Expiration of a Temporary Use Permit

The City Manager shall set an expiration date for each Temporary Use Permit. ~~The expiration date shall not be later than 30 calendar days after the effective date for retail sales related to seasonal activities, temporary public assembly, and entertainment uses. The expiration date shall not exceed 180 days after the effective date for wireless communication facilities.~~ For retail sales related to seasonal activities, temporary public assembly, and entertainment uses, the expiration date shall not be later than 30 days after the Temporary Use Permit's effective date. For wireless communication facilities, the expiration date shall not be later than 180 days after the Temporary Use Permit's effective date. For

placemaking on private property, the expiration date shall not be later than five years after the Temporary Use Permit's effective date.

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

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

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

(d) ~~A Neighborhood Development Permit decided in accordance with Process Two shall be required for pedestrian plaza encroachments in the *public right-of-way* which are beyond the established curb line.~~

(d) Notwithstanding Sections 129.0710(a)-(d), a *development permit* is not required prior to issuance of a Public Right-of-Way Permit for *placemaking in the public right-of-way* subject to the following regulations:

(1) Applicants proposing a *placemaking* project in the *public right-of-way* shall demonstrate to the satisfaction of the City Manager that the project constitutes a lawful use of the *public right-of-way*.

(2) Written permission from the *record owner* of the property underlying the *public right-of-way* is required.

(3) If the *placemaking* project includes the temporary removal of one or more parking spaces to accommodate the project, the City Manager may approve the temporary removal as part of the Public

Right-of-Way Permit only in accordance with the procedures described in Municipal Code section 86.0104, except that compliance with the Angle Parking Standards shall not be required unless otherwise applicable, and that, in no case shall the City Manager approve temporary removal of parking for a *placemaking* project that results in temporary removal of parking on that segment of the street in excess of 25 percent of the total number of parking spaces available within that segment.

(4) The term of the Public Right-of-Way Permit shall not exceed five years. The term shall not be limited in accordance with Municipal Code section 129.0750 and shall not be eligible for an extension of time pursuant to Municipal Code section 129.0751. At the expiration of the term, the *placemaking* project shall be removed and the *permit holder* shall return the *public right-of-way* property to its original condition, to the satisfaction of the City Manager. Removal shall not be required if a new Public Right-of-Way Permit is obtained prior to its expiration.

(5) The *permit holder* shall be responsible for maintaining the *placemaking* project. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the party responsible for the *placemaking* project in a location visible from the *public right-of-way*, keeping the *placemaking* project area

free of litter, and preventing litter attributable to the *placemaking* project from occurring on adjacent properties.

(6) A *placemaking* use that contains elements governed by other laws and regulations shall also be subject to those laws and regulations.

(7) The *placemaking* project shall not occur in an Industrial Base Zone or a Residential-Single Unit (RS) Zone.

(8) The *placemaking* project shall not include commercial services, retail, or assembly and entertainment uses as *accessory uses*.

(9) The *placemaking* project shall allow for safe and efficient visibility and circulation for motor vehicle users and other users of the *public right-of-way*, including bicyclists and pedestrians, and shall not impede the safe use of parking spaces or travel lanes in the *public right-of-way*, as determined by the City Engineer.

§131.0222 Use Regulations Table for Open Space Zones

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

Legend for Table 131-02B

[No change in text.]

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

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones					
	1st & 2nd >>	OP-		OC-	OR ⁽¹⁾ -		OF ⁽¹¹⁾ -
	3rd >>	1-	2-	1-	1-	1-	
	4th >>	1	1	1	1	2	1
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]	[No change in text.]						
<u>Placemaking on Private Property</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]						

Footnotes for Table 131-02B [No change in text.]

§131.0322 Use Regulations Table for Agricultural Zones

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

Legend for Table 131-03B

[No change in text.]

Table 131-03B
Use Regulations Table for Agricultural Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>		AG		AR
3rd >>		1-		1-	
4th >>		1	2	1	2
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]		[No change in text.]			
<u>Placemaking on Private Property</u>		<u>L</u>		<u>L</u>	
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]			

Footnotes for Table 131-03B [No change in text.]

§131.0422 Use Regulations Table for Residential Zones

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

Legend for Table 131-04B

[No change in text.]

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

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																							
	1st & 2nd >>	RE-	RS-												RX-		RT-								
3rd >>	1-	1-												1-		1-									
4th >>		1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4	5
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]		[No change in text.]																							
<u>Placemaking on Private Property</u>	<u>L</u>	<u>L</u>												<u>L</u>		<u>L</u>									
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]																							

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
	1st & 2nd >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]		[No change in text.]												
<u>Placemaking on Private Property</u>		<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>		
Institutional, Separately Regulated Institutional Uses, <i>Satellite</i> <u>Satellite Antennas</u> through <i>Signs</i>, Separately Regulated Signs Uses, Theater <i>Marquees</i> [No change in text.]		[No change in text.]												

Footnotes for Table 131-04B [No change in text.]

§131.0522 Use Regulations Table for Commercial Zones

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

Legend for Table 131-05B

[No change in text.]

**Table 131-05B
Use Regulations Table for Commercial Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																													
	[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st & 2nd >>	CN ⁽¹⁾ -					CR-		CO-					CV-		CP-														
3rd >>		1-					1-	2-	1-	2-	3-	1-	1-																		
4th >>		1	2	3	4	5	1	1	1	2	1	2	1	2	1	2	1	2	1												
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]		[No change in text.]																													
<u>Placemaking on Private Property</u>		<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>													
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]																													

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																															
	[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st & 2nd >>	CC-																														
3rd >>		1-						2-						3-						4-						5-							
4th >>		1	2	3	1	2	3	4	5	4	5	6	7	8	9	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]		[No change in text.]																															
<u>Placemaking on Private Property</u>		<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]																															

Footnotes for Table 131-05B [No change in text.]

§131.0531 Development Regulations Tables for Commercial Zones

The following development regulations apply in each of the commercial zones as shown in Tables 131-05C, 131-05D, and 131-05E.

(a) CN Zones

**Table 131-05C
Development Regulations for CN Zones**

Development Regulations [See Section 131.0530 for Development Regulations of Commercial Zones]	Zone Designator	Zones				
	1st & 2nd >>	CN-				
	3rd >>	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5
Max Permitted Residential Density ⁽¹⁾ through Lot Dimensions , Min <i>Lot</i> Depth (ft) [No change in text.]		[No change in text.]				
Setback Requirements ⁽⁵⁾						
Setback Requirements , Min Front <i>Setback</i> (ft) through Visibility Area [See Section 113.0273] [No change in text.]		[No change in text.]				

Footnotes for Table 131-05C

¹ through ⁴ [No change in text.]

⁵ Placemaking on private property shall not be subject to setback regulations, in accordance with Section 141.0421.

(b) CR, CO, CV, and CP Zones

Table 131-05D
Development Regulations for CR, CO, CV, CP Zones

Development Regulations [See Section 131.0530 for Development Regulations of Commercial Zones]	Zone Designator	Zones										
	1st & 2nd >>	CR-		CO-						CV-		CP-
	3rd >>	1-	2-	1-		2-		3-		1-		1-
	4th >>	1	1	2	1-	2-	1	2	1	2	1	
Max Permitted Residential Density⁽¹⁾ through Lot Dimensions, Min Lot Depth (ft) [No change in text.]	[No change in text.]											
Setback Requirements⁽⁶⁾	[No change in text.]											
Setback Requirements, Min Front Setback (ft) through Max Structure Height (ft) [No change in text.]	[No change in text.]											
Min Lot Coverage (%)⁽⁶⁾	[No change in text.]											
Max Floor Area Ratio through Visibility Area [See Section 113.0273]	[No change in text.]											

Footnotes for Table 131-05D

¹ through ⁵ [No change in text.]

⁶ Placemaking on private property shall not be subject to setback or minimum lot coverage regulations, in accordance with Section 141.0421.

(c) CC Zones

Table 131-05E
Development Regulations for CC Zones

Development Regulation [See Section 131.0530 for Development Regulations of Commercial Zones]	Zone Designator	Zones															
	1st & 2nd >>	CC-															
	3rd >>	1-	2-	4-	5-	1-	2-	4-	5-	1-	2-	4-	5-	2-	3-	4-	5-
	4th >>	1			2			3			4						
Max Permitted Residential Density⁽¹⁾ through Lot Dimensions, Max Lot Depth (ft) [No change in text.]	[No change in text.]																
Setback Requirements⁽⁶⁾																	
Setback Requirements, Min Front Setback (ft) through Max Structure Height (ft) [No change in text.]	[No change in text.]																
Min Lot Coverage (%)⁽⁶⁾	[No change in text.]																
Max Floor Area Ratio through Visibility Area [See Section 113.0273] [No change in text.]	[No change in text.]																

Development Regulation [See Section 131.0530 for Development Regulations of Commercial Zones]	Zone Designator	Zones									
	1st & 2nd >>	CC									
	3rd >>	2-	3-	4-	5-	3-	4-	5-	3-	3-	3-
	4th >>	5			6			7	8	9	
Max Permitted Residential Density⁽¹⁾ through Lot Dimensions, Max Lot Depth (ft) [No change in text.]	[No change in text.]										
Setback Requirements⁽⁶⁾											
Setback Requirements, Min Front Setback (ft) through Max Structure Height (ft) [No change in text.]	[No change in text.]										
Min Lot Coverage (%)⁽⁶⁾	[No change in text.]										
Max Floor Area Ratio through Visibility Area [See Section 113.0273] [No change in text.]	[No change in text.]										

Footnotes for Table 131-05E

¹ through ⁵ [No change in text.]

⁶ Placemaking on private property shall not be subject to setback or minimum lot coverage regulations, in accordance with Section 141.0421.

§131.0622 Use Regulations Table for Industrial Zones

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

Legend for Table 131-06B

[No change in text.]

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

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	IP-			IL-			IH-		IS-	IBT-
	3rd >>	1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>	1	1	1	1	1	1	1	1	1	1
Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations [No change in text.]	[No change in text.]										
<u>Placemaking on Private Property</u>	=	=	=	=	=	=	=	=	=	=	=
Institutional, Separately Regulated Institutional Uses, <i>Satellite</i> Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]										

Footnotes for Table 131-06B [No change in text.]

§141.0421 Placemaking on Private Property

Placemaking on private property 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) Written permission from the record owner of the property is required.

(b) Off-street parking spaces are not required, but may be permitted as an

accessory use to serve the placemaking use if the square footage

designated for the off-street parking spaces does not exceed 25 percent of

the total square footage designated for the placemaking use.

- (c) A Temporary Use Permit shall be obtained in accordance with Section 123.0402.
- (d) At the expiration of the term of the Temporary Use Permit, the *placemaking* project shall be removed and the *permit holder* shall return the *premises* to its original condition, to the satisfaction of the City Manager. Removal shall not be required if a new Temporary Use Permit is obtained prior to its expiration.
- (e) The Temporary Use Permit *permit holder* shall be responsible for maintaining the *placemaking* project. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the party responsible for the *placemaking* project in a location visible from the *public right-of-way*, keeping the *placemaking* project area free of litter, and preventing litter attributable to the *placemaking* project from occurring on adjacent properties.
- (f) A *placemaking* project shall only occur on *premises* that are vacant at the time the Temporary Use Permit application is submitted.
- (g) A *placemaking* use that also qualifies as another separately regulated use shall also be subject to those separately regulated use regulations. A *placemaking* use that contains elements governed by other laws and regulations shall also be subject to those laws and regulations.
- (h) *Placemaking* on private property in Commercial Base Zones shall also be subject to the following regulations:
- (1) The *placemaking* project shall not include retail or commercial services uses except as *accessory uses* to serve the *placemaking*

use, and shall not operate except between the hours of 7:00 a.m. and 10:00 p.m., unless a separate Temporary Use Permit is obtained.

(2) Commercial Base Zone regulations for setbacks and minimum lot coverage shall not apply.

(i) Placemaking on private property in Open Space and Residential Base Zones shall not include commercial services or assembly and entertainment uses as accessory uses.

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