

ORDINANCE NUMBER O- 21655 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 12 2023

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0704, 126.0707, AND 126.0708; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY AMENDING SECTIONS 141.0621, 141.0628, AND 141.0629 ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S MODIFICATIONS REQUIRED FOR CERTIFICATION OF SPACES AS PLACES PROGRAM AND CODE UPDATE TO THE LAND DEVELOPMENT CODE AND LOCAL COASTAL PROGRAM.

WHEREAS, on November 9, 2021, the Council of the City of San Diego adopted the Spaces as Places amendments to the Land Development Code of the San Diego Municipal Code pursuant to Ordinance O-21391 (Spaces as Places Ordinance); and

WHEREAS, the Land Development Code serves as the Implementation Plan to the City's certified Local Coastal Program (LCP); and

WHEREAS, the Spaces as Places Ordinance must be certified by the California Coastal Commission (Commission) as consistent with Coastal Act policies because it amends the City's LCP before it can become effective in the Coastal Overlay Zone; and

WHEREAS, on December 14, 2022, the Commission considered and approved certification of the Spaces as Places Ordinance with modifications related to replacement of parking removed for Spaces as Places improvements located within the Beach Impact Area but outside of a Transit Priority Area, and additional regulations related to the permitting of Spaces as Places improvements within the Coastal Overlay Zone; and

WHEREAS, the City desires to accept the Commission's modifications; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

Section 1. That Chapter 12, Article 6, Division 7 of the San Diego Municipal Code is amended by amending sections 126.0704, 126.0707, and 126.0708, to read as follows:

§126.0704 Exemptions from a Coastal Development Permit

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

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

§126.0707 Decision Process for a Coastal Development Permit

(a) A decision on an application for a City-issued Coastal Development Permit in the *non-appealable area* of the Coastal Overlay Zone shall be made in accordance with Process Two. The decision may be appealed to the Planning Commission in accordance with Section 112.0504. The following are exceptions to this decision process:

- (1) A decision on an application for a *capital improvement program project* or *public project* in the *non-appealable* or the *appealable area* of the Coastal Overlay Zone shall be made in accordance with Section 126.0707(c).
- (2) A decision on an application in the *non-appealable area* of the Coastal Overlay Zone for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on

private property in accordance with Section 141.0628, and
promenades in accordance with Section 141.0629 shall be made in
accordance with Section 126.0707(h).

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

(d) Except for Coastal Development Permits issued in accordance with Sections 126.0707(g) and 126.0707(h), conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision for public access, open space, or conservation easements or the relocation or redesign of proposed site improvements. In any *subdivision* or other land division, such conditions shall be imposed at the time of the *subdivision* or other land division, rather than through subsequent development permits. When conditions pertaining to public access, open space, or conservation easements are imposed, the City Manager shall notify the Executive Director of the Coastal Commission as set forth in Section 126.0719.

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

(h) A decision on an application in the non-*appealable area* of the Coastal Overlay Zone for a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made as follows:

- (1) A Coastal Development Permit for sidewalk cafes, streetaries, active sidewalks, and promenades shall be issued as a Public Right-of-Way Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 7, Section 129.0730, Section 112.0502, and Section 141.0621 or 141.0629, as applicable.
- (2) A Coastal Development Permit for outdoor dining on private property shall be issued as a Building Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 2, Section 129.0730, Section 112.0502, and Section 141.0628.
- (3) Sections 126.0711, 126.0712, 126.0713, 126.0715 and 126.0716 related to recordation, issuance, initial utilization, time extension, and modification or amendment of a Coastal Development Permit shall not apply to a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks.
- (4) If the proposed *coastal development* involves any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8), a Coastal Development Permit shall be required in accordance with a Process Two as specified in Section 126.0707(a).

§126.0708 Findings for Coastal Development Permit Approval

Except for Coastal Development Permits issued in accordance with Section 126.0707(g) through (h), an application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section

126.0708(b) that are applicable to the proposed *development*. Coastal Development Permits issued in accordance with Section 126.0707(g) shall be approved if the administrative *findings* in Section 126.0708(c), and if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied. Coastal Development Permits issued in accordance with Section 126.0707(h) shall be approved if the administrative findings in Section 126.0708(d) and, if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied.

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

(d) The following administrative findings shall be made for Coastal Development Permits required for sidewalk cafes, streetaries, active sidewalks, outdoor dining on private property, and promenades permitted in accordance with Section 126.0707(h) in order to ensure that the *cooastal development* conforms to the *Local Coastal Program*:

- (1) The proposed Coastal Development Permit will preserve existing public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program* land use plan and Chapter 13, Article 2, Division 4.
- (2) The proposed *coastal development* complies with the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1.
- (3) The proposed *coastal development* does not involve any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8).

- (4) The proposed *coastal development* will not preclude public access to any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program* land use plan.

Section 2. That Chapter 14, Article 1, Division 6 of the San Diego Municipal Code is amended by amending sections 141.0621, 141.0628, and 141.0629, to read as follows:

§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) [No change in text.]

(b) Limited Use Regulations for Streetaries

(1) [No change in text.]

(2) Permit Requirements

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

(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) through (Q) [No change in text.]

(3) through (5) [No change in text.]

(c) Limited Use Regulations for Active Sidewalks

(1) through (2) [No change in text.]

(3) Permit Requirements:

(A) [No change in text.]

(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) through (K) [No change in text.]

(4) through (7) [No change in text.]

§141.0628 Outdoor Dining on Private Property

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

(a) Permit Requirements:

(1) through (4) [No change in text.]

(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 *transit priority 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 *transit priority 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 *transit priority 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) through (9) [No change in text.]

- (b) [No change in text.]

§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) [No change in text.]

(b) Permit Requirements:

(1) [No change in text.]

(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.

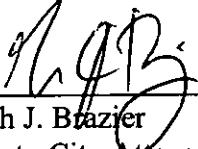
(3) through (9) [No change in text.]

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

Section 3. 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 4. That this ordinance shall not take effect until the date the California Coastal Commission unconditionally certifies these provisions as a Local Coastal Program amendment, or until the thirtieth day from and after its final passage, whichever occurs later.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Noah J. Brazier
Deputy City Attorney

NJB:nja
02/24/2023
Or. Dept: Planning
Doc. No.: 3229875

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 06 2023.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 6/12/23
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0704, 126.0707, AND 126.0708; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY AMENDING SECTIONS 141.0621, 141.0628, AND 141.0629 ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S MODIFICATIONS REQUIRED FOR CERTIFICATION OF SPACES AS PLACES PROGRAM AND CODE UPDATE TO THE LAND DEVELOPMENT CODE AND LOCAL COASTAL PROGRAM.

§126.0704 Exemptions from a Coastal Development Permit

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

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

(i) ~~Outdoor dining on private property and promenades, streetaries, and active sidewalks designed in accordance with the Land Development Code and the Spaces as Places Design Manual.~~

§126.0707 Decision Process for a Coastal Development Permit

(a) A decision on an application for a City-issued Coastal Development Permit in the non-appealable area of the Coastal Overlay Zone shall be made in accordance with Process Two, ~~except that a decision on an application for a capital improvement program project or public project in the non-appealable or the appealable area of the Coastal Overlay Zone~~

~~shall be made in accordance with Section 126.0707(e).~~ The decision may be appealed to the Planning Commission in accordance with Section 112.0504. The following are exceptions to this decision process:

- (1) A decision on an application for a *capital improvement program project* or *public project* in the *non-appealable* or the *appealable* area of the Coastal Overlay Zone shall be made in accordance with Section 126.0707(c).
- (2) A decision on an application in the *non-appealable area* of the Coastal Overlay Zone for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made in accordance with Section 126.0707(h).

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

- (d) Except for Coastal Development Permits issued in accordance with Sections 126.0707(g) and 126.0707(h), conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision for public access, open space, or conservation easements or the relocation or redesign of proposed site improvements. In any *subdivision* or other land division, such conditions shall be imposed at the time of the *subdivision* or other land division, rather than through subsequent development permits. When conditions pertaining to public

access, open space, or conservation easements are imposed, the City Manager shall notify the Executive Director of the Coastal Commission as set forth in Section 126.0719.

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

(h) A decision on an application in the non-appealable area of the Coastal Overlay Zone for a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made as follows:

- (1) A Coastal Development Permit for sidewalk cafes, streeteries, active sidewalks, and promenades shall be issued as a Public Right-of-Way Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 7, Section 129.0730, Section 112.0502, and Section 141.0621 or 141.0629, as applicable.
- (2) A Coastal Development Permit for outdoor dining on private property shall be issued as a Building Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 2, Section 129.0730, Section 112.0502, and Section 141.0628.
- (3) Sections 126.0711, 126.0712, 126.0713, 126.0715 and 126.0716 related to recordation, issuance, initial utilization, time extension, and modification or amendment of a Coastal Development Permit

shall not apply to a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks.

- (4) If the proposed *coastal development* involves any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8), a Coastal Development Permit shall be required in accordance with a Process Two as specified in Section 126.0707(a).

§126.0708 Findings for Coastal Development Permit Approval

Except for Coastal Development Permits issued in accordance with Section 126.0707(g) through (h), an application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are applicable to the proposed *development*. Coastal Development Permits issued in accordance with Section 126.0707(g) shall be approved if the administrative *findings* in Section 126.0708(c), and if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied. Coastal Development Permits issued in accordance with Section 126.0707(h) shall be approved if the administrative findings in Section 126.0708(d) and, if applicable, the supplemental findings in Section 126.0708(b), are satisfied.

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

- (d) The following administrative findings shall be made for Coastal Development Permits required for sidewalk cafes, streetaries, active sidewalks, outdoor dining on private property, and promenades permitted in accordance with Section

126.0707(h) in order to ensure that the *coastal development* conforms to the *Local Coastal Program*:

- (1) The proposed Coastal Development Permit will preserve existing public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program* land use plan and Chapter 13, Article 2, Division 4.
- (2) The proposed *coastal development* complies with the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1.
- (3) The proposed *coastal development* does not involve any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8).
- (4) The proposed *coastal development* will not preclude public access to any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program* land use plan.

§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) [No change in text.]

(b) Limited Use Regulations for Streetaries

(1) [No change in text.]

(2) Permit Requirements

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

(C) ~~Removal of parking spaces, with the exception of accessible parking spaces in accordance with Title 24 of the California Code of Regulations (California Building Standards Code), shall not be the basis of denial of a Public Right of Way Permit for a streetary. 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) through (Q) [No change in text.]

(3) through (5) [No change in text.]

(c) Limited Use Regulations for Active Sidewalks

(1) through (2) [No change in text.]

(3) Permit Requirements:

(A) [No change in text.]

(B) ~~Removal of parking, with the exception of accessible spaces in accordance with Title 24 of the California Code of Regulations (California Building Standards Code), shall not be a basis of denial of a Public Right of Way Permit for an active sidewalk.~~ 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) through (K) [No change in text.]

(4) through (7) [No change in text.]

§141.0628 Outdoor Dining on Private Property

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

(a) Permit Requirements:

(1) through (4) [No change in text.]

(5) ~~Removal of required off-street parking spaces on a premises where any portion of the premises is located within a transit priority area;~~

~~with the exception of any existing accessible spaces in accordance with Title 24 of the California Code of Regulations (California Building Standards Code), shall not be a basis of denial of the permit.~~ 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 transit priority 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 transit priority 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 transit priority 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) through (9) [No change in text.]

(b) [No change in text.]

§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) [No change in text.]

(b) Permit Requirements:

(1) [No change in text.]

(2) ~~Removal of parking, with the exception of accessible spaces in accordance with Title 24 of the California Code of Regulations (California Building Standards Code), shall not be a basis of denial of the permit.~~ 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) through (9) [No change in text.]

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

NJB:nja
02/24/2023
Or. Dept: Planning
Doc. No.: 3229882

Passed by the Council of The City of San Diego on JUN 06 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 12 2023.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
Interim City Clerk of The City of San Diego, California.

By Connie Patterson 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

MAY 22 2023

, and on JUN 12 2023.

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)

DIANA J.S. FUENTES
Interim City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21655