

## STRIKEOUT ORDINANCE

**OLD LANGUAGE: ~~Struck Out~~**

**NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-20928 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 22, 2018

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 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. ~~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 Proecess 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 <sup>(1)</sup> -	OF <sup>(11)</sup> -	
3rd >>	1- 2-	1-	1-	1-		
4th >>	1 1	1	1	2	1	
<b>Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations</b> [No change in text.]	[No change in text.]					
<i>Placemaking on Private Property</i>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	
<b>Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees</b> [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
<b>Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations</b> [No change in text.]		[No change in text.]			
<i>Placemaking on Private Property</i>		<u>L</u>		<u>L</u>	
<b>Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees</b> [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
<b>Open Space through Institutional, Separately Regulated Institutional Uses, Major Transmission, Relay, or Communications Switching Stations</b> [No change in text.]		[No change in text.]																							
<i>Placemaking on Private Property</i>	<u>L</u>	<u>L</u>												<u>L</u>		<u>L</u>									
<b>Institutional, Separately Regulated Institutional Uses, Satellite Antennas through Signs, Separately Regulated Signs Uses, Theater Marquees</b> [No change in text.]		[No change in text.]																							

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

Use Categories/Subcategories	Zone Designator	Zones																								
		[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st & 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
<b>Open Space</b> through <b>Institutional, Separately Regulated Institutional Uses</b> , Major Transmission, Relay, or Communications Switching Stations [No change in text.]		[No change in text.]																								
<i>Placemaking</i> on Private Property		<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>	
<b>Institutional, Separately Regulated Institutional Uses</b> , Satellite <i>Antennas</i> through <b>Signs</b> , Separately Regulated <b>Signs Uses</b> , Theater <i>Marquees</i> [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 >>	<b>CN-</b>			
	3rd >>	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5
<b>Max Permitted Residential Density<sup>(1)</sup></b> through <b>Lot Dimensions</b> , Min <i>Lot</i> Depth (ft) [No change in text.]		[No change in text.]				
<b>Setback Requirements<sup>(5)</sup></b>						
<b>Setback Requirements</b> , Min Front <i>Setback</i> (ft) through <b>Visibility Area</b> [See Section 113.0273] [No change in text.]		[No change in text.]				

**Footnotes for Table 131-05C**

<sup>1</sup> through <sup>4</sup> [No change in text.]

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

**Footnotes for Table 131-05D**

<sup>1</sup> through <sup>5</sup> [No change in text.]

<sup>6</sup> 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						
<b>Max Permitted Residential <i>Density</i><sup>(1)</sup> through <i>Lot Dimensions</i>, Max <i>Lot</i> Depth (ft)</b> [No change in text.]		[No change in text.]															
<b><i>Setback Requirements</i><sup>(6)</sup></b>																	
<b><i>Setback Requirements</i>, Min Front <i>Setback</i> (ft) through <b>Max <i>Structure Height</i> (ft)</b> [No change in text.]</b>		[No change in text.]															
<b>Min <i>Lot Coverage</i> (%)<sup>(6)</sup></b>		[No change in text.]															
<b>Max <i>Floor Area Ratio</i> through <b>Visibility Area</b></b> [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	
<b>Max Permitted Residential <i>Density</i><sup>(1)</sup> through <i>Lot Dimensions</i>, Max <i>Lot</i> Depth (ft)</b> [No change in text.]		[No change in text.]									
<b><i>Setback Requirements</i><sup>(6)</sup></b>											
<b><i>Setback Requirements</i>, Min Front <i>Setback</i> (ft) through <b>Max <i>Structure Height</i> (ft)</b> [No change in text.]</b>		[No change in text.]									
<b>Min <i>Lot Coverage</i> (%)<sup>(6)</sup></b>		[No change in text.]									
<b>Max <i>Floor Area Ratio</i> through <b>Visibility Area</b></b> [See Section 113.0273] [No change in text.]		[No change in text.]									

**Footnotes for Table 131-05E**

<sup>1</sup> through <sup>5</sup> [No change in text.]

<sup>6</sup> 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
<b>Open Space</b> through <b>Institutional, Separately Regulated Institutional Uses</b> , Major Transmission, Relay, or Communications Switching Stations [No change in text.]	[No change in text.]										
<i>Placemaking</i> on Private Property	=	=	=	=	=	=	=	=	=	=	=
<b>Institutional, Separately Regulated Institutional Uses</b> , <i>Satellite</i> <b>Satellite Antennas</b> through <b>Signs</b> , <b>Separately Regulated Signs Uses</b> , Theater <i>Marquees</i> [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*.

KMH:als  
10/04/2017  
10/12/2017 Cor. Copy  
0/02/2018 Cor. Copy.2  
Or.Dept: Economic Dev't  
Doc. No.: 1517775\_7