

Downtown Specific Plan

SPECIAL USES

VII. SPECIAL USES

A. PURPOSE STATEMENT

Unique and special uses in the public right-of-way of the Downtown area are encouraged to enhance the pedestrian ambiance. However, reasonable regulation of these uses is necessary to protect public health, safety, and welfare. The purpose of this section is to set forth the conditions and requirements under which special uses, as defined below, may be permitted to operate by approval of the Director of Community Development within the downtown area.

1. SIDEWALK CAFES

a. Definition

A sidewalk cafe is any group of tables and chairs, and its authorized decorative and accessory devices situated and maintained upon the public sidewalk for use in connection with the consumption of food and beverage sold to the public from, or in, an adjoining indoor restaurant.

b. Encroachment Permit Required

An Encroachment Permit from the Engineering Division is required for any proposed sidewalk cafe which is proposed within the public right-of-way.

c. Limitations and Requirements


A sidewalk cafe may be permitted only in districts that allow indoor restaurants, and then only if the sidewalk cafe is situated adjacent to an indoor restaurant (as specified below) and the sidewalk cafe's operation is incidental to, and a part of, the operation of such adjacent indoor restaurant.

- 1) Existing indoor restaurants shall conform to all sections of the Municipal Code in order to be eligible for approval of sidewalk services.
- 2) A sidewalk cafe may be located on the public sidewalk immediately adjacent to, and abutting, the indoor restaurant which operates the cafe, provided that the area in which the sidewalk cafe is located extends no farther along the sidewalk's length than the actual sidewalk frontage of the operating indoor restaurant and all other applicable provisions of this section are fulfilled.



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- 3) A sidewalk cafe shall be located on an area of the public sidewalk immediately adjacent to, or abutting, the indoor restaurant which operates the café. All applicable provisions of this section shall be fulfilled and the majority of the area in which the sidewalk cafe is located shall be situated on the public sidewalk directly in front of, or beside, the indoor restaurant that operates the cafe. The area of the public sidewalk that would be enclosed for the use of an outdoor café shall be considered as being directly in front of, or beside, the indoor restaurant for the purposes of this subsection.
- 4) An indoor restaurant may be permitted to operate only one sidewalk café, and each sidewalk cafe shall be confined to a single location on the sidewalk.
- 5) A sidewalk cafe may be permitted only where the sidewalk is wide enough to adequately accommodate the usual pedestrian traffic in the area to the satisfaction of the City, and the operation of the proposed cafe.
- 6) All tables and chairs shall be set back to provide a 4-foot minimum of 'free and clear' sidewalk area to accommodate pedestrian traffic. This distance may be reduced to 3 feet when street trees and/or a landscaped parkway area exist. Tables or chairs shall not be situated within 8 feet of any designated bus stop.
- 7) All outdoor dining furniture (including tables, chairs, umbrellas, and planters) shall be movable. Umbrellas shall be secured with a minimum base of not less than 60 pounds. Outdoor heaters, amplified music, or speakers shall require Plot Plan approval from the Planning Division.
- 8) No sign shall be allowed at any outdoor cafe, except for the name of the establishment and/or product name on an umbrella valance.
- 9) The outdoor preparation of food and associated busing facilities are prohibited at sidewalk cafes. Presetting of tables with utensils, glasses, napkins, condiments, etc., is prohibited. All exterior surfaces within the cafe shall be easily cleanable and shall be kept clean at all times by the business owner. Restrooms for the cafe shall be provided in the adjoining indoor restaurant, and the cafe seating shall be counted to determine the restroom requirements of the indoor restaurant.

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- 10) Trash storage areas for the sidewalk cafe shall not be permitted within the outdoor dining area or on adjacent sidewalk areas. The business owner shall remove all trash and litter as it accumulates. The business owner shall be responsible for maintaining the outdoor dining area, including the sidewalk surface and furniture, as well as adjacent areas, in a clean and safe condition.



- 11) Hours of operation shall be identical to those of the indoor restaurant, unless reduced by the approved Plot Plan conditions of approval. Tables, chairs, and all other furniture used in the operation of an outdoor cafe shall be removed from the sidewalk and stored indoors whenever the cafe is not in operation.
- 12) Outside seating area square footage for up to 50% of the inside seating area square footage shall not require additional parking. Outside seating area square footage exceeding 50% of the inside seating area square footage shall require additional parking pursuant to Article 39 of the Zoning Code.
- 13) The City shall have the right and power, acting through the City Manager or his designee, to prohibit the operation of a sidewalk cafe at any time because of anticipated, or actual, conflicts in the use of the sidewalk area. Such conflicts may arise from, but are not limited to, scheduled festivals, public events, parades, repairs to the street or sidewalk, and/or emergencies which might occur in the area. To the extent possible, the business owner shall be given prior written notice of any time period during which the operation of the sidewalk cafe would be prohibited by the City. Any failure to give prior written notice shall not affect the right and power of the City to prohibit the cafe's operation at any particular time.

d. Alcohol Service Requirements

A sidewalk cafe may serve only food and beverages prepared or stocked for sale at the adjoining indoor restaurant, provided that the service of beer and/or wine, solely for on-premises consumption by customers within the area of the sidewalk cafe has been authorized by the Director of Community Development as part of the plot plan approval. Each of the following requirements also shall be met:

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- 1) The area authorized for the sidewalk cafe shall be identified in a manner approved by the Director of Community Development which clearly separates and delineates it from the areas of the sidewalk to remain open to pedestrian traffic.
- 2) The sidewalk cafe operation shall be duly licensed, or prior to the service of any beer and/or wine at the cafe shall be duly licensed by State authorities to sell beer and/or wine, or both, for consumption within the area of the sidewalk cafe.
- 3) Sidewalk cafes in which alcohol would be served shall be separated physically from the pedestrian traffic by appropriate fencing/barriers approved by the Director of Community Development as part of the site plan approval process. Required fencing/barriers shall be a minimum of 3 feet in height, but not to exceed 4 feet in height, and shall not be permanently fixed to the sidewalk. Fencing/barriers shall be made of durable materials, self-supporting and weighted to withstand overturning by wind or contact, and complement the design of the structure. Typical materials include, but are not limited to, wrought iron, post-and-chain, planters, or picket fencing.



e. Findings and Conditions

The Director of Community Development shall make findings that the proposed operation meets the limitations of this section in connection with approval of any sidewalk cafe. Conditions for granting approval to assure that the proposed operation would meet the operating requirements and conditions set forth in this section, and to ensure that the public safety and welfare would be protected may be imposed.

f. Revocation

The right to operate a sidewalk cafe may be revoked by the Director of Community Development upon a finding that one or more conditions of this section have been violated, or that the sidewalk cafe is being operated in a manner which constitutes a nuisance, or that the operation of the sidewalk cafe unduly impedes or restricts the movement of pedestrians past the sidewalk cafe.

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g. Liability/Insurance

Any individual/business applying for a sidewalk cafe, with or without alcohol sales, shall agree to indemnify and hold harmless the City of Escondido in the event of any property damage or personal injury that arises from any accident involving the use being located within the public right-of-way. Proof of liability insurance, naming the City of Escondido as additionally insured shall be provided to the City prior to issuance of Encroachment Permit approval and shall provide that the policy shall not terminate, or be canceled, prior to the expiration date without 30 days advance written notice to the City.

2. SIDEWALK VENDORS/PUSHCARTS



Vending on the public streets and sidewalks shall not be allowed within the Downtown Specific Planning Area, except for special events specifically approved by the City or as provided by the Outdoor Display and Sale of Retail Merchandise (Ordinance 92-43). Outdoor display and sale of retail food and/or merchandise, including pushcarts, shall be permitted at the Center for the Arts, subject to specific criteria approved by Resolution of the City Council.

3. OUTDOOR DISPLAY AND SALE OF MERCHANDISE

Outdoor display and sale of retail merchandise shall be permitted in Downtown, subject to the provisions of Ordinance 92-43, Article 73 of the Escondido Zoning Code, with the exception that only the following items are acceptable for outdoor display, if permitted by the underlying district in which the associated business is located:

- Antiques
- Artwork
- Bicycles
- Books
- China and Glassware
- Clothing
- Crafts
- Flowers and Plants (to include seasonal / Christmas trees)
- Food Sales including Farmer's Markets
- Jewelry
- Newspapers, and Magazines
- Shoes
- Sporting Goods



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4. SPECIAL EVENTS

Special events shall include temporary use of public property, including, but not limited to, streets, sidewalks, and parks, for the purpose of conducting a parade, any other special enterprise, or any event which substantially restricts the public's normal, typical, or customary use, level of use, or ability to use such property. Special events shall be permitted according to the provisions of Ordinances 92-8 of the City of Escondido (see Article 4 of the Escondido Municipal Code).



5. NEWSPAPER VENDING BOXES



Newspaper vending boxes are allowed within the Downtown Specific Plan Area subject to the provisions of Article 15 of the Escondido Municipal Code. An encroachment permit shall be required for all newspaper vending boxes located within the public right-of-way.