

Article 1: Separately Regulated Use Regulations

Division 5: Retail Sales Use Category--Separately Regulated Uses
(Added 12-9-1997 by O-18451 N.S.)

§141.0501 Agriculture-Related Supplies and Equipment

Agricultural-related supplies and equipment may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) The location, number, and intensity of other nonagricultural establishments located in the vicinity will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (b) The proximity and capacity of *freeways*, primary arterials, and major *streets* will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (c) Off-street parking shall be sufficient to serve the facility and limit adverse impacts to adjacent or nearby property.

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

§141.0502 Alcoholic Beverage Outlets

Any establishment for which a Type 20 Beer and Wine License or a Type 21 General Liquor License has been obtained from, or for which an application has been submitted to, the California Department of Beverage Control for permission to sell alcoholic beverages for off-site consumption shall be regulated as an alcoholic beverage outlet subject to this section.

Alcoholic beverage outlets 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 regulations in Section 141.0502(b). Proposals for alcoholic beverage outlets that do not comply with the regulations in Section 141.0502(b) may be permitted with a Conditional Use Permit decided in accordance with Process Three subject to the regulations in Section 141.0502(c).

- (a) Exemptions. The following alcoholic beverage outlets and areas are exempt from the provisions of this section:

- (1) Hotels, *motels*, or any other lodging establishments where the area devoted to the sale of alcoholic beverages for off-site consumption does not exceed 10 percent of the *gross floor area* of the entire *premises*;
- (2) Establishments of more than 15,000 square feet of *gross floor area*, provided the area devoted to alcohol sales does not exceed 10 percent of the *gross floor area* of the entire *premises*;
- (3) Alcoholic beverage establishments within the Gaslamp Quarter Planned District and the Centre City Planned District; and
- (4) Alcoholic beverage outlets that were in existence on December 20, 1995, if the outlet retains the same type of retail liquor license within a license classification and is in continuous operation without substantial change in the mode or character of operation.
 - (A) For the purposes of Section 141.0502(a)(4), a break in “continuous operation” does not include the suspension of business due to extraordinary circumstances beyond the control of the licensee or a closure for more than 180 calendar days during the diligent pursuit of building repairs or remodeling of the *premises* undertaken under the authority of a valid Building Permit.
 - (B) For the purposes of Section 141.0502(a)(4), “substantial change in mode or character of operation” includes any of the following:
 - (i) Closure, abandonment, discontinuance, or suspension of the outlet for more than 180 consecutive calendar days during which the *premises* are not continually maintained and secured;
 - (ii) Alteration of the *premises* that would result in an increase of more than 10 percent of the existing *gross floor area* of all *structures* on the *premises*;
 - (iii) Revocation or suspension of the license issued by the State of California Department of Alcoholic Beverage Control (ABC) for a period of more than 30 calendar days for any reason; or

- (iv) Conviction of the owner, operator, or the ABC licensee for violations of California Health and Safety Code Sections 11350, 11351, 11352, 11550 and 11364.7 when the conviction relates to the *premises* or the operation of the establishment.
- (b) Limited Use Regulations. Alcoholic beverage outlets are permitted as a limited use subject to the following regulations.
- (1) Alcoholic beverage outlets are not permitted in any of the following locations:
 - (A) Within a census tract, or within 600 feet of a census tract, where the general crime rate exceeds the citywide average general crime rate by more than 20 percent;
 - (B) Within a census tract, or within 600 feet of a census tract, where the ratio of alcohol beverage outlets exceeds the standards established by California Business and Professional Code section 23958.4;
 - (C) In an adopted Redevelopment Project Area;
 - (D) Within 600 feet of a public or private accredited *school*, a *public park*, a playground or recreational area, a *church*, a hospital, or a San Diego County welfare district office; and
 - (E) Within 100 feet of a residentially zoned property.
 - (2) For the purposes of Section 141.0502(b)(1), the separation distance shall be measured from *property line* to *property line* in accordance with Section 113.0225. A separation distance less than that required in Section 141.0502(b)(1) may be approved by the City Manager due to the existence of natural or built barriers such as topography, *freeways*, *flood* control channels, rivers, or similar divisive features if no direct access is available within the measurement area.
 - (3) Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or coin-operated amusement devices are not permitted on the *premises* with an alcoholic beverage outlet.

- (4) Exterior public pay phones that permit incoming calls are not permitted on the *premises*, adjacent public sidewalks, or areas under the control of the owner or operator.
- (5) The owner or operator shall provide illumination, at a minimum level of 0.4 foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the *premises* at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.
- (6) The *sign* area pertaining to or referencing alcoholic sales or beverages shall not exceed 630 square inches.
- (7) A maximum of 33 percent of the square footage of the windows and doors of the *premises* may bear advertising or *signs* of any sort, and all advertising and *signs* shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.
- (8) The owner or operator of the alcoholic beverage outlet shall post a prominent, permanent *sign* or *signs* stating, “No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the *premises*, in the parking area, or on the public sidewalks adjacent to the *premises*.”
- (9) The owner or operator shall list a business address and telephone number in the Pacific Bell/San Diego telephone directory or other similarly distributed directory.
- (10) The owner or operator shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. At least one 13-gallon trash receptacle shall be located inside the *premises*. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the owner or operator.

- (11) The owner or operator shall maintain the *premises*, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. The owner or operator shall eliminate graffiti within 48 hours of application.
 - (12) Off-street parking shall be provided in accordance with the requirements for retail sales uses in Table 142.05E.
- (c) Conditional Use Permit Regulations. Proposed alcoholic beverage outlets that do not comply with the regulations in Section 141.0502(b) may be permitted with a Conditional Use Permit decided in accordance with Process Three subject to the following regulations.
- (1) The San Diego Police Department shall provide the City Manager with a recommendation on the proposed use and location of the alcoholic beverage outlet. The City Manager will provide the *applicant* with a copy the Police Department recommendation at least 7 calendar days before the date of the public hearing. The decision maker will review and consider the Police Department recommendation before making a decision on the application.
 - (2) The decision maker may request that the State of California Department of Alcoholic Beverage Control impose restrictions on any alcohol sales license to be issued or renewed by the state. The decision maker's request shall be based on an evaluation of conditions in the area of the proposed alcoholic beverage outlet, including the concentration of alcoholic beverage outlets, high crime rates, or any other conditions in the area that would be aggravated by the sale of alcoholic beverages.
 - (3) Off-street parking shall be provided in accordance with the requirements for retail sales uses in Table 142.05E.
 - (4) Conditions addressing the following issues may be imposed by the decision maker:
 - (A) Entertainment uses or activities or amusement devices on the *premises*;
 - (B) Separation, monitoring, or design of the area devoted to alcoholic beverage sales;
 - (C) Hours of operation;

- (D) Security measures; and
 - (E) Lighting, litter, graffiti or nuisance abatement, or any other special requirements for the *premises*.
- (5) The owner or operator shall post a copy of the Conditional Use Permit conditions in the licensed *premises* in a place where they may be readily viewed by any member of the general public or any member of a government agency.
- (6) The Conditional Use Permit shall include a date on which the permit will expire and become void. This date shall not be less than 10 years from the approval date of the Conditional Use Permit.
- (7) An *applicant* may request that the expiration date be extended in accordance with the following provisions.
- (A) An application for an extension shall be filed before the expiration of the approved Conditional Use Permit.
 - (B) An application for an extension shall be considered in accordance with Process Two if there is no record in the City of San Diego Police Department or other department or with any other governmental agency of any violations of the State of California Department of Alcoholic Beverage Control rules, regulations, and orders or of any violation of city, county, state or federal law, code, regulation or policy related to prostitution, drug activity or other criminal activity on the *premises*.
 - (C) An application for an extension shall be considered in accordance with Process Three if there is a record of violations as described in Section 141.0502(c)(7)(B).
 - (D) Prior violations of any conditions contained in an approved Conditional Use Permit shall constitute grounds for denying an application for an extension.

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

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

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

§141.0503 Farmers' Markets

Farmers' markets are outdoor establishments where farmers and other vendors sell produce and other goods directly to consumers and where vendors selling farm produce comprise at least 50 percent of the vendors. A farmers' market may be either a weekly farmers market or a daily farmers market stand. Weekly farmers' markets conducted on public property are not subject to this section. Farmers' markets are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Weekly farmers' markets on private property shall comply with the following:
 - (1) Written permission of the property owner to conduct the weekly farmers' market shall be available to City of San Diego staff and officials upon request;
 - (2) A farmers' market shall be limited to one event per week per location;
 - (3) No parking shall be required; however, any parking reserved for handicapped access impacted by the farmers' market shall be temporarily relocated to a handicapped accessible location during the hours of the farmers market;
 - (4) Access to all building entryways and all disabled access routes shall be maintained; and
 - (5) One restroom per 250 persons shall be available.
- (b) Daily farmers' market stands shall comply with the following:
 - (1) Daily farmers' market stands may operate seven days per week at a given location;
 - (2) Outdoor display areas shall comply with Section 142.1130 (Outdoor Display Regulations for Commercial Zones);
 - (3) No parking shall be required;
 - (4) Sales shall be limited to the sale of unprocessed, non-value added crops;
 - (5) A daily farmers' market stand shall occupy an area no greater than five feet in depth and sixteen feet in length per commercial frontage; and

- (6) No required parking shall be displaced.
- (c) Daily farmers' market stands on private property shall obtain written permission of the property owner to conduct the daily farmers' market and shall make such written permission available to City of San Diego staff and officials upon request, in addition to the requirements of Section 141.0503(b)(1) through 141.0503(b)(6).
- (d) Daily farmers' market stands located in the public right-of-way, between the curb and fronting property line, shall comply with the following in addition to the requirements of Section 141.0503(b)(1) through 141.0503(b)(6):
 - (1) Written permission of the fronting property owner to conduct the daily farmers' market shall be available to City of San Diego staff and officials upon request;
 - (2) A Certificate of Insurance for a Public Liability Insurance Policy of at least \$500,000 in a form acceptable to the City Engineer and naming the City as an additional insured shall be required to be maintained at all times; and
 - (3) The location of the daily farmers' market stand shall comply with the following:
 - (A) A minimum 4-foot wide clear path of sidewalk shall be maintained within the public right-of-way at all times;
 - (B) Access to adjacent uses shall be maintained at all times;
 - (C) The daily farmers' market stand shall be located as close as feasible to the fronting property; and
 - (D) The daily farmers' market stand shall not be located parallel to loading areas, transit stops, taxi zones, or areas designated for pedestrian loading and unloading.

(“Plant Nurseries” added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(“Farmers’ Markets” added 2-22-2012 by O-20141 N.S.; effective 3-23-2012.
Former Section “Plant Nurseries” renumbered to Section 141.0504.)

§141.0504 Marijuana Outlets

Marijuana outlets that are consistent with the requirements for retailer or dispensary license requirements in the California Business and Professions Code may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), provided that no more than four *marijuana outlets* are permitted in each City Council District. *Marijuana outlets* are subject to the following regulations.

- (a) *Marijuana outlets* shall maintain the following minimum separation between uses, as measured between *property lines*, in accordance with Section 113.0225:
 - (1) 1,000 feet from resource and population-based city parks, other *marijuana outlets*, *churches*, child care centers, *playgrounds*, libraries owned and operated by the City of San Diego, *minor-oriented facilities*, residential care facilities, and schools. For purposes of this section, school means any public or private institution of learning providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.
 - (2) 100 feet from a residential zone.
- (b) Lighting shall be provided to illuminate the interior, façade, and the immediate surrounding area of the *marijuana outlet*, including any *accessory uses*, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented to deflect light away from adjacent properties.
- (c) Security shall be provided at the *marijuana outlet* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premises* during business hours. The security guard shall only be engaged in activities related to providing security for the facility, except on an incidental basis.
- (d) Primary *signs* shall be posted on the outside of the *marijuana outlet* and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors.
- (e) The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside the *marijuana outlet* in character size at least two inches in height.

- (f) The *marijuana outlet* shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
- (g) The use of vending machines which allow access to marijuana and marijuana products except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this Section, a vending machine is any device which allows access to marijuana and marijuana products without a human intermediary.
- (h) A permit shall be obtained as required pursuant to Chapter 4, Article 2, Division 15.
- (i) A Conditional Use Permit for a *marijuana outlet* shall expire no later than five years from the date of issuance.
- (j) Deliveries shall be permitted as an *accessory use* only from *marijuana outlets* with a valid Conditional Use Permit unless otherwise allowed pursuant to the Compassionate Use Act of 1996.
- (k) The *marijuana outlet*, adjacent public sidewalks, and areas under the control of the *marijuana outlet*, shall be maintained free of litter and graffiti at all times.
- (l) The *marijuana outlet* shall provide daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
- (m) Consultations by medical professionals shall not be a permitted *accessory use* at a *marijuana outlet*.
- (n) An extension of time for a Conditional Use Permit granted to a *marijuana outlet* shall comply with the requirements of Section 126.0111, with the following exceptions:
 - (1) The extension shall be for no more than five years.
 - (2) A decision on an application for an extension of time shall be made in accordance with Process Two. Appeals of a decision to approve an extension of time shall be made to the Planning Commission.
 - (3) The separation requirements in Section 141.0504(a) shall not be considered in making the findings required in Section 126.0111(g) when a specified use in Section 141.0504(a) has located within the required distance after the approval date of the initial Conditional Use Permit.

- (4) A change in zoning after the approval date of the initial Conditional Use Permit shall not be considered in making the findings required in Section 126.0111(g).

*(“Marijuana Outlets” added 2-22-2017 by O-20793 N.S.; effective 4-12-2017.
Former Section 141.0504 “Plant Nurseries” renumbered to Section 141.0505.)*

§141.0505 Plant Nurseries

For the purpose of Section 141.0504, plant nurseries are commercial establishments where plants are cultivated and grown for transplant, distribution, and sale that have a sales transaction area greater than 300 square feet. Plant nurseries are permitted in the zones indicated with a “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Plant nurseries may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations.

- (a) The location, number, and intensity of other nonagricultural establishments located in the vicinity will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (b) The proximity and capacity of *freeways*, primary arterials, and major *streets* will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (c) Off-street parking shall be provided at a level sufficient to serve the establishment without impacting adjacent or nearby property.
- (d) Section 141.0504 shall not apply to the sale of plants from a garden center or other retail store, which is permitted in zones that allow the sale of consumer goods.

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

(Renumbered from former Section 141.0503, on 2-22-2012 by O-20141 N.S.; effective 3-23-2012.)

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

(Renumbered from former Section 141.0504 on 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)

§141.0506 Retail Farms

Retail farms are establishments whose primary function is to produce and sell food and other related products on the same *premises*. Retail farms are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1(Base Zones) subject to the following regulations:

- (a) The maximum area inclusive of retail and farming areas shall not exceed 4 acres;
- (b) The use of pesticides is limited to those permitted by the U. S. Department of Agriculture’s National Organic Program;
- (c) A minimum of seventy-five percent of the products sold must be grown or generated onsite;
- (d) The hours of operation for the farm component shall be limited to the hours between sunrise and sunset as set forth by the National Oceanic and Atmosphere Administration for the San Diego area;
- (e) All equipment shall be stored on the *premises*;
- (f) All storage, service, and repair areas shall be enclosed, secured and located outside of all required setbacks; and
- (g) Parking shall comply with Chapter 14, Division 2, Article 5 (Parking Regulations).
 - (1) The retail component shall comply with the parking ratios for Retail Sales, Commercial Services, and Mixed use Development;
 - (2) The farm component shall provide one parking space per employee working the farm during the largest shift; and
 - (3) For a “pick your own” retail operation, the retail parking ratio shall assume 1,000 square feet of retail space per acre of land farm.

*(“Retail Farms” added 2-22-2012 by O-20141 N.S.; effective 3-23-2012.)
(Renumbered from former Section 141.0505 on 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)*

§141.0507 Swap Meets and Other Large Outdoor Retail Facilities

Swap meets and other large outdoor retail facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Swap meets and other large outdoor retail facilities are not permitted in agricultural zones *Proposition A Lands* or within *floodplains* located in agriculturally zoned areas of the Coastal Overlay Zone..
- (b) Access to these facilities shall be as direct as possible from *freeways* and shall avoid residential *streets*.
- (c) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.
- (d) Hours of operation shall be limited so that neighboring *development* is not disturbed by noise and lights.
- (e) A litter control plan shall be implemented to keep the facility and adjacent property litter-free.
- (f) All storage, service, and repair areas shall be located on the site and *screened* so that they are not visible from *public rights-of-way* or from nearby residential *development*.

(Renumbered from former Section 141.0504, on 2-22-2012 by O-20141 N.S.; effective 3-23-2012.)

(Renumbered from former Section 141.0506 on 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)

§141.0508 Retail Tasting Stores

Retail tasting stores are branch locations of an affiliated licensed beer manufacturer, which sell or deliver alcoholic beverages produced by that manufacturer. Consumption of the applicable beverage may be on or off the *premises* of the retail tasting store. Retail tasting stores are establishments with Duplicate Type 1 Beer Manufacturer Licenses or a Duplicate Type 23 Small Beer Manufacturer Licenses issued by the California Department of Alcoholic Beverage Control. This Section does not apply to tasting rooms located on the *premises* of a licensed beer manufacturer. No beer manufacturing shall occur on the *premises* of the retail tasting store.

Retail tasting stores are permitted as a limited use in the zones indicated with a “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following:

- (a) Off-street parking shall be provided in accordance with Section 142.0530 Table 142-05E (Parking Ratios for Retail Sales, Commercial Services, and Mixed-Use Development); and
- (b) Retail tasting stores shall not operate between 12:00 midnight and 6:00 a.m. in CN zones or on *premises* abutting residentially zoned property.

*(“Retail Tasting Stores” added 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)
(Renumbered from former Section 141.0507 on 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)*