

RESOLUTION NUMBER R- 313763

DATE OF FINAL PASSAGE NOV 01 2021

A RESOLUTION OF THE COUNCIL OF THE CITY
OF SAN DIEGO APPROVING THE SPACES AS
PLACES EXCLUSIVE USE FEE FOR
STREETARIES IN THE PUBLIC RIGHT-OF-WAY.

WHEREAS, Ordinance No. 0-21391 includes the Spaces as Places Regulations, which create opportunities for safe and enjoyable outdoor spaces for people of all abilities in a manner that successfully activates the public right-of-way; and

WHEREAS, the Spaces as Places Regulations allow for streetaries, active sidewalks, outdoor dining within private property, and promenades subject to specific regulations necessary to ensure the public health, safety, and welfare; and

WHEREAS, the Spaces as Places Regulations require the payment of an Exclusive Use Fee for streetaries prior to issuance of a public right-of-way permit for creating outdoor spaces that was considered by the City Council together with this Resolution; and

WHEREAS, the Exclusive Use Fee is required only at the discretion of an applicant that opts for the exclusive use of the public right-of-way for the purpose of private outdoor dining; and

WHEREAS, the Exclusive Use Fee is not required for dining in the public right-of-way within active sidewalks and promenades since active sidewalks and promenades will involve long-term investments by private owners in the public right-of-way along with long-term private maintenance for the public benefit; and

WHEREAS, the Exclusive Use Fee will be used to ensure the successful implementation of the Spaces as Places Regulations, including the cost to oversee

enforcement of the regulations, as well as to fund improvements that result in the safe and enjoyable use of surrounding public spaces, such as traffic calming investments to enhance safety for all people experiencing the public right-of-way, expanded sidewalks and bikeways to allow for more spaces for people, tree and shade investments to provide relief from the heat within the right-of-way, and recreational amenities that can enhance the public's experience while also providing recreational value; and

WHEREAS, development across the City of San Diego is not distributed equally across communities, and historically, some communities have been afforded greater access to opportunity than others over years of growth and development; and

WHEREAS, communities that have experienced the lowest access to opportunity often have the greatest need for quality public spaces and neighborhood recreation amenities and safe active transportation options; and

WHEREAS, the City desires to continue to engage the community through continued public involvement and feedback to determine how funds received through the Exclusive Use Fee should be expended; and

WHEREAS, the City desires to proactively utilize the provision in Assembly Bill 43 in tandem with traffic calming to lower speed limits to allow for increased and successful use of the Spaces as Places Regulations in Communities of Concern; NOW, THEREFORE,

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

1. That an Exclusive Use fee of \$30.00 per square foot of outdoor dining space per year for areas identified in the Citywide Climate Equity Index as having high or very high access to opportunity, \$20.00 per square foot of outdoor dining space per year for areas identified in the Citywide Climate Equity Index as having moderate access to opportunity, and

\$10.00 per square foot of outdoor dining space per year for areas identified in the Citywide Climate Equity Index as having low or very low access to opportunity shall be paid prior to the execution of an Encroachment Maintenance and Removal Agreement required for a streetary, to be imposed in accordance with San Diego Municipal Code Chapter 14, Article 1, Division 6, is adopted. The Exclusive Use Fee shall be updated annually based on the annual increase in the Construction Costs Index (CCI) published by Engineering News Record for Los Angeles, or similar construction industry index selected by the City Manager if the CCI index is discontinued.

2. The Exclusive Use Fee shall not apply where the entire outdoor dining area is open to the public at all times, with a sign indicating its public availability that is prominently displayed.

3. That the Chief Financial Officer is authorized to establish an interest-bearing fund for funds collected from the Exclusive Use Fee, to be used solely to fund the cost to oversee administration and enforcement of the Spaces as Places Regulations, as well as to fund the safe and enjoyable use of surrounding public spaces, such as traffic calming investments to enhance safety for all people experiencing the public right-of-way, expanded sidewalks and bikeways to allow for more spaces for people, tree and shade investments to provide relief from the heat within the right-of-way, and recreational amenities that can enhance the public's experience while also providing recreational value (Right-of-Way Improvements). After the costs to oversee administration and enforcement of the Spaces as Places Regulations are funded, the remaining funds shall be used to fund Right-of-Way Improvements, with at least 50 percent of those remaining funds to be expended solely within Communities of Concern, as defined by the City Manager, and shall be prioritized for traffic

calming on commercial corridors with the goal of increasing areas where the Spaces as Places Regulations can be utilized in Communities of Concern. For the funds to be expended within Communities of Concern, the funds may also be used to facilitate outdoor dining improvements that enhance the public right-of-way.

4. That the Chief Financial Officer is authorized to distribute funds from the Outdoor Dining Exclusive Use Fund in accordance with this Resolution and San Diego Municipal Code Section 141.0621.

5. That this Resolution shall be effective on the effective date of Ordinance No. 0-21391, adopting the Spaces as Places regulations, and shall be in effect at the time Public Right-of-Way Permits are issued, in accordance with San Diego Municipal Code Chapter 12, Article 9, Division 7.

APPROVED: MARA W. ELLIOTT, City Attorney

By

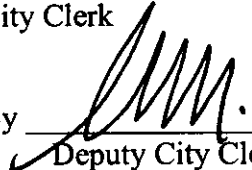


Noah J. Brazier
Deputy City Attorney

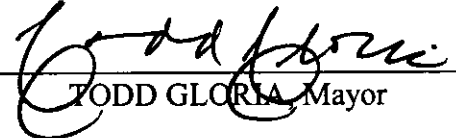
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10/27/2021 REV. COPY
Or. Dept: Planning
Doc. No.: 2780178_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 26 2021.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/29/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on OCT 26 2021, 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"/>
Chris Cate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 NOV 01 2021.

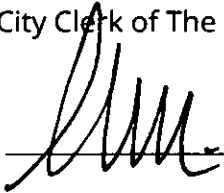
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

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

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California

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