



THE CITY OF SAN DIEGO

## Report to the Planning Commission

DATE ISSUED: JULY 11, 2019 REPORT NO. PC-19-072

HEARING DATE: JULY 25, 2019

SUBJECT: PUSHCART REGULATIONS  
MUNICIPAL CODE AMENDMENT AND LOCAL COASTAL PROGRAM  
AMENDMENT  
PROCESS FIVE DECISION

### SUMMARY

Issues: Should the Planning Commission recommend to the City Council approval of an amendment to the City's Municipal Code and Local Coastal Program to remove pushcart regulations within the public right-of-way to comply with Senate Bill 946.

Staff Recommendation: Recommend approval of the amendments as proposed to the City Council.

City Strategic Plan Goal and Objectives:

Goal #3: Create and sustain a resilient and economically prosperous City.

Objective #1: Diversify and grow the local economy.

Environmental Review: The proposed project is not a project pursuant to California Environmental Quality Act (CEQA) Guidelines section 15378 because it would not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The project is also exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) because there is no possibility that the activity in question may have a significant effect on the environment. Pushcarts located within the right-of-way are not permanent structures and are primarily designed to service existing pedestrian activity.

Housing Impact Statement: The proposed amendments would apply citywide and there are no impacts to housing as pushcarts are a non-residential use.

Technical Advisory Committee (TAC): Planning Department staff notified the members of TAC via email on July 2, 2019, of this proposed action due to their July 10, 2019 meeting being cancelled.

Code Monitoring Team (CMT): Planning Department staff notified the members of CMT via email, on July 2, 2019, of this proposed action due to their July 10, 2019 meeting being cancelled.

Community Planners Committee (CPC) Recommendation: On June 25, 2019, the item was presented as an informational item and no comments were received.

## BACKGROUND

The Land Development Code (LDC) provides the City's regulations for the development and use of property, information on zoning, subdivisions, grading and other related land use activities. The existing pushcart regulations have been in place since the Land Development Code was adopted in 2000. There have been minor amendments in 2013 and 2015. Currently, the existing pushcart regulations are considered a Commercial Service Use-Separately Regulated Uses within Chapter 14, Article 1, Division 6 of the Land Development Code (LDC). Pushcarts within the public right-of-way in certain zones require a Neighborhood Use Permit (NUP) and are a Process 2 staff decision. Pushcarts on private property in certain zones are regulated as a limited use, meaning if the pushcarts comply with certain limitations they are allowed by right without a NUP.

## DISCUSSION

On September 17, 2018, Senate Bill 946 (Attachment 1) was approved which allows the local authority to regulate sidewalk vending in accordance with the provisions of the bill. The bill defines a sidewalk vendor as a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

In order to comply with state law, staff is amending the existing pushcart regulations to remove the pushcarts regulations within the public right-of-way. Staff is currently working on amendments to allow sidewalk vending in the public right-of-way in Chapter 3, Business Regulations, Business Taxes, Permits and Licenses of the San Diego Municipal Code (SDMC). The existing regulations for pushcarts on private property will remain (Attachment 2) as the Senate Bill only addresses pushcarts regulations within the public right-of-way.

## CONCLUSION

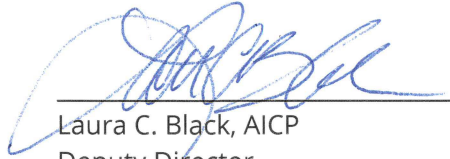
The proposed amendments to remove pushcarts regulations within the public right-of-way are required for the City to comply with state law.

Respectfully submitted,



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Development Project Manager III  
Planning Department  
LB/RM



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Deputy Director  
Planning Department

Attachments:

1. Senate Bill [946](#)
2. Draft Code language (Strikeout/Underline)

## **Senate Bill No. 946**

### **CHAPTER 459**

An act to add Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the Government Code, relating to sidewalk vendors.

[Approved by Governor September 17, 2018. Filed with  
Secretary of State September 17, 2018.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 946, Lara. Sidewalk vendors.

Existing law authorizes a local authority, by ordinance or resolution, to adopt requirements for the public safety regulating any type of vending and the time, place, and manner of vending from a vehicle upon a street.

This bill would prohibit a local authority, as defined, from regulating sidewalk vendors, except in accordance with the provisions of the bill. The bill would provide that a local authority is not required to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the provisions of the bill. The bill would apply these provisions to a chartered or general law city, county, or city and county.

The bill would require a local authority that elects to adopt a sidewalk vending program to, among other things, not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns, and not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified. The bill would authorize a local authority to, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending, as specified, if the requirements are directly related to objective health, safety, or welfare concerns. The bill would also authorize a local authority to prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market and a permitted swap meet, as specified, and to restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, as specified. A violation would be punishable only by an administrative fine, as specified, pursuant to an ability-to-pay determination, and proceeds would be deposited in the treasury of the local authority.

The bill would require the dismissal of any criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors that have not reached final judgment. The bill would also authorize a person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk

vending, as specified, to petition for dismissal of the sentence, fine, or conviction.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

*The people of the State of California do enact as follows:*

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Sidewalk vending provides important entrepreneurship and economic development opportunities to low-income and immigrant communities.

(2) Sidewalk vending increases access to desired goods, such as culturally significant food and merchandise.

(3) Sidewalk vending contributes to a safe and dynamic public space.

(4) The safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending.

(5) The safety and welfare of the general public is promoted by prohibiting criminal penalties for violations of sidewalk vending ordinances and regulations.

(6) This act applies to any city, county, or city and county, including a charter city. The criminalization of small business entrepreneurs, and the challenges that those entrepreneurs face as a result of a criminal record, are matters of statewide concern. Further, unnecessary barriers have been erected blocking aspiring entrepreneurs from accessing the formal economy, harming California's economy in the process, and disrupting the regulation of business, which is a matter of statewide concern. Moreover, California has an interest in the regulation of traffic, a matter of statewide concern, whether in ensuring the appropriate flow of traffic or in ensuring the safety of pedestrians on the road or the sidewalk.

(b) It is the intent of the Legislature to promote entrepreneurship and support immigrant and low-income communities.

SEC. 2. Chapter 6.2 (commencing with Section 51036) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

#### CHAPTER 6.2. SIDEWALK VENDORS

51036. For purposes of this chapter, the following definitions apply:

(a) "Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

(b) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

(c) “Stationary sidewalk vendor” means a sidewalk vendor who vends from a fixed location.

(d) “Local authority” means a chartered or general law city, county, or city and county.

51037. (a) A local authority shall not regulate sidewalk vendors except in accordance with Sections 51038 and 51039.

(b) Nothing in this chapter shall be construed to affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

(c) Nothing in this chapter shall be construed to require a local authority to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the requirements in this chapter.

51038. (a) A local authority may adopt a program to regulate sidewalk vendors in compliance with this section.

(b) A local authority’s sidewalk vending program shall comply with all of the following standards:

(1) A local authority shall not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns.

(2) (A) A local authority shall not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except the local authority may prohibit stationary sidewalk vendors from vending in the park only if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

(B) Notwithstanding subparagraph (A), a local authority may adopt additional requirements regulating the time, place, and manner of sidewalk vending in a park owned or operated by the local authority if the requirements are any of the following:

(i) Directly related to objective health, safety, or welfare concerns.

(ii) Necessary to ensure the public’s use and enjoyment of natural resources and recreational opportunities.

(iii) Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

(3) A local authority shall not require a sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before he or she can sell food or merchandise.

(4) (A) A local authority shall not restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.

(B) Notwithstanding subparagraph (A), a local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but shall not prohibit roaming sidewalk vendors.

(5) A local authority shall not restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction of the local authority,

unless the restriction is directly related to objective health, safety, or welfare concerns.

(c) A local authority may, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns, including, but not limited to, any of the following:

(1) Limitations on hours of operation that are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation for sidewalk vending shall not be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street.

(2) Requirements to maintain sanitary conditions.

(3) Requirements necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.

(4) Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license, provided that the local authority issuing the permit or business license accepts a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number in lieu of a social security number if the local authority otherwise requires a social security number for the issuance of a permit or business license, and that the number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or licensure program or comply with a state law or state or federal court order.

(5) Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller's permit.

(6) Requiring additional licenses from other state or local agencies to the extent required by law.

(7) Requiring compliance with other generally applicable laws.

(8) Requiring a sidewalk vendor to submit information on his or her operations, including, but not limited to, any of the following:

(A) The name and current mailing address of the sidewalk vendor.

(B) A description of the merchandise offered for sale or exchange.

(C) A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.

(D) The California seller's permit number (California Department of Tax and Fee Administration sales tax number), if any, of the sidewalk vendor.

(E) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

(d) Notwithstanding subdivision (b), a local authority may do both of the following:

(1) Prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the

Food and Agricultural Code and any regulations adopted pursuant to that chapter. A “swap meet” means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

(2) Restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local authority’s temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the local authority for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.

(e) For purposes of this section, perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

51039. (a) (1) A violation of a local authority’s sidewalk vending program that complies with Section 51038 is punishable only by the following:

(A) An administrative fine not exceeding one hundred dollars (\$100) for a first violation.

(B) An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.

(C) An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.

(2) A local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

(3) (A) If a local authority requires a sidewalk vendor to obtain a sidewalk vending permit from the local authority, vending without a sidewalk vending permit may be punishable by the following in lieu of the administrative fines set forth in paragraph (1):

(i) An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.

(ii) An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.

(iii) An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.

(B) Upon proof of a valid permit issued by the local authority, the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph (1), respectively.

(b) The proceeds of an administrative fine assessed pursuant to subdivision (a) shall be deposited in the treasury of the local authority.



(c) Failure to pay an administrative fine pursuant to subdivision (a) shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in subdivision (a) shall not be assessed.

(d) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038, or a violation of any rules or regulations adopted prior to January 1, 2019, that regulate or prohibit sidewalk vendors in the jurisdiction of a local authority, shall not be punishable as an infraction or misdemeanor, and the person alleged to have violated any of those provisions shall not be subject to arrest except when permitted under law.

(2) Notwithstanding any other law, paragraph (1) shall apply to all pending criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors. Any of those criminal prosecutions that have not reached final judgment shall be dismissed.

(e) A local authority that has not adopted rules or regulations by ordinance or resolution that comply with Section 51037 shall not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the standards described in subdivision (b) Section 51038.

(f) (1) When assessing an administrative fine pursuant to subdivision (a), the adjudicator shall take into consideration the person's ability to pay the fine. The local authority shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(2) If the person meets the criteria described in subdivision (a) or (b) of Section 68632, the local authority shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to subdivision (a).

(3) The local authority may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

(g) (1) A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under the act that added this section had that act been in effect at the time of the offense, may petition for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.

(2) Upon receiving a petition under paragraph (1), the court shall presume the petitioner satisfies the criteria in paragraph (1) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in paragraph (1), the court shall grant the petition to dismiss the sentence or fine, if applicable, and dismiss and seal the conviction, because the sentence, fine, and conviction are legally invalid.

(3) Unless requested by the petitioner, no hearing is necessary to grant or deny a petition filed under paragraph (1).

(4) If the court that originally sentenced or imposed a fine on the petitioner is not available, the presiding judge shall designate another judge to rule on the petition.

(5) Nothing in this subdivision is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner.

(6) Nothing in this subdivision or related provisions is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this chapter.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 51038 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The Legislature finds and declares that in order to protect the privacy of a sidewalk vendor with regard to his or her California driver's license or identification number, individual taxpayer identification number, or municipal identification number, when that number is collected in lieu of a social security number for purposes of the issuance of a permit or business license, it is necessary that the sidewalk vendor's number be confidential, except as provided in this act.

### § 126.0203 When a Neighborhood Use Permit Is Required

- (a) An application for the following uses in certain zones may require a Neighborhood Use Permit. To determine whether a Neighborhood Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13.

Artisan Food and Beverage Producer through Parking facilities as a primary use [No change in text]

~~Pushcarts~~

Recycling facilities (under circumstances described in Section 141.0620) through *Wireless communication facilities* (under certain circumstances described in Section 141.0420) [No change in text]

### § 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) If the proposed *encroachment* involves construction of a privately-owned *structure* or facility into the *public right-of-way* dedicated for a *street* or an *alley*, and where the *applicant* is the *record owner* of the underlying fee title, a Neighborhood Development Permit is required in accordance with Section 126.0402(j) except for the following, which are subject to approval by the City Engineer in accordance with Process One:

(1) through (3) [No change in text]

~~(4) The *encroachment* is permitted under Section 141.0619(b) (Pushcarts).~~

(5) through (9) [No change in text]

**§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> -	
	3rd >>	1-	2-	1-		1-	1-
	4th >>	1	1	1	1	2	1
<b>Open Space through Commercial Services, Separately Regulated Commercial Services Uses</b> , [No change in text.]		[No change in text]					
<del>Pushcarts:</del>							
Pushcarts on Private Property		[No change in text]					
<del>Pushcarts in Public Right of Way</del>		N	-	-	-	-	-

**§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 Commercial Services, Separately Regulated Commercial Services Uses</b> [No change in text.]					
Pushcarts					
Pushcarts on Private Property		[No change in text]			
<del>Pushcarts in public right-of-way</del>		-		-	

**§131.0422 Use Regulations Table for Residential Zones**

The uses allowed in the Residential zones are shown in 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
Open Space through Commercial Services, Separately Regulated Commercial Services Uses [No change in text.]		[No change in text]																							
—Pushcarts:																									
Pushcarts on Private Property		[No change in text]																							
—Pushcarts in <i>Public Right of Way</i>		-	-												-		-								

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 >>	RM-											
	3rd >>	1-			2-			3-			4-		5-
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12
<b>Open Space through Commercial Services, Separately Regulated Commercial Services Uses</b> [No change in text.]		[No change in text]											
<del>Pushcarts:</del>													
Pushcarts on Private Property		[No change in text]											
<del>Pushcarts in <i>Public Right of Way</i></del>		-											-

# § 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  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones															
	1st & 2nd >>	CN <sup>(1)</sup> -					CR-		CO-						CV-		CP-
	3rd >>	1-					1-	2-	1-		2-		3-		1-		1-
	4th >>	1	2	3	4	5	6	1	1	1	2	1	2	1	2	3	1
<b>Open Space through Commercial Services, Separately Regulated Commercial Services Uses</b> [No change in text.]																	
<b>Pushcarts:</b>																	
Pushcarts on Private Property [No change in text.]																	
<b>Pushcarts in <i>Public Right of Way</i></b>		N					N	N	N		N		N		N		-

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zone																	
	1st &> 2nd>> 3rd >>	CC-																	
		1-			2-			3-		4-					5-				
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Open Space through Commercial Services, Separately Regulated Commercial Services Uses [No change in text.]																			
Pushcarts:																			
Pushcarts on Private Property [No change in text.]																			
Pushcarts in <i>Public Right of Way</i>		N			N			N		N					N				

**§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 through Commercial Services, Separately Regulated Commercial Services Uses</b> [No change in text.]		[No change in text.]									
<del>Pushcarts:</del>											
Pushcarts on Private Property		[No change in text.]									
<del>Pushcarts in Public Right of Way</del>		N	N	N	N	N	N	N	N	N	N



**§132.1510 Noise Compatibility**

Noise compatibility between airport operations and proposed *development* within Review Area 1 of this overlay zone shall be evaluated as follows:

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

**Legend for Table 132-15D** [No change in text.]

**Table 132-15D**

**Noise Compatibility Criteria**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Aircraft Noise Exposure (dB CNEL)			
	60-65	65-70	70-75	75-80
<b>Open Space through Commercial Services, Separately Regulated Commercial Services Uses</b> [No change in text.]	[No change in text.]			
Pushcarts <u>on Private Property</u>	[No change in text.]			

## § 141.0619 Pushcarts

This Section regulates pushcarts on private property ~~and pushcarts in the public right-of-way~~. Pushcarts are moveable, wheeled, non-motorized vehicles used by vendors for the sale of food or beverage products, fresh-cut flowers, or live plants in pots. Pushcarts are a health-regulated business subject to Section 42.0102.

(a) Pushcarts on Private Property [No change in text]

(b) Pushcarts in the *Public Right of Way*

~~Pushcarts may be permitted in the public right-of-way with a Neighborhood Use Permit in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:~~

(1) ~~The decision maker will evaluate the following to determine whether a pusheart is a suitable use for the proposed location and will not infringe on the use of the public right-of-way by pedestrians:~~

- (A) ~~The width of the sidewalk;~~
- (B) ~~The proximity and location of building entrances;~~
- (C) ~~Existing obstructions to pedestrian use of the sidewalk including light standards, trees, parking meters, trash receptacles, traffic signals, signs, benches, phone booths, newspaper stands, and bus stops;~~

- (D) ~~Vehicle activity areas in the adjacent roadway including bus stops, truck loading zones, taxi stands or hotel zones, and passenger loading areas; and~~
- (E) ~~The amount of pedestrian use and the impact of the pusheart's location on pedestrian activity.~~
- (2) ~~The decision maker will consider the appropriateness of the pusheart design and color scheme, signs, and graphics for the products for sale and the proposed location.~~
- (3) ~~The applicant shall obtain and submit with the permit application a Certificate of Insurance for a public liability insurance policy of at least \$500,000. The liability insurance shall be provided in a form and an amount acceptable to the City Engineer. The policy shall name the City as an additional insured and shall be maintained at all times.~~
- (4) ~~The applicant shall obtain and submit with the permit application a notarized authorization from the owner or proprietor of the adjacent street level business for the applicant to install and operate the pusheart.~~
- (5) ~~Pushearts shall not exceed 4 feet in width, not including wheels; 8 feet in length, including handles; and 6 feet in height, not including canopies, umbrellas, and transparent enclosures.~~
- (6) ~~A clear path, free of all obstructions to the flow of pedestrian traffic, shall be provided in the public right of way and shall be~~

~~maintained at all times. Obstructions include traffic signals or signs, light standards, parking meters, phone booths, newspaper stands, bus stops, trash receptacles, benches, trees, and similar objects. The clear path shall be a paved sidewalk that is at least 8 feet wide. The clear path shall be measured in the following manner:~~

- ~~(A) For pushcarts located at the curb, the clear path shall be measured from the pushcart to the nearest obstruction within the flow of pedestrian traffic. The pushcart shall not hang over the curb;~~
- ~~(C) For pushcarts located at *street* intersections, the clear path shall include the area formed by extending the *property line* to each curb line;~~
- ~~(D) Recesses in the *building facade* shall not be used to satisfy the clear path requirement; and~~
- ~~(E) The decision maker may grant an exception to the minimum clear path width if pedestrian volumes and existing *street* conditions are such that no congestion would result.~~

- (7) Pushcarts shall not touch or be attached to any *structure* or any obstruction within the flow of pedestrian traffic, including traffic signals or signs, light standards, parking meters, phone booths,

~~newspaper stands, bus stops, trash receptacles, benches, trees, and similar objects.~~

(8) ~~Pushcarts shall not obstruct access to parked vehicles, impede the delivery of materials to adjoining property, nor preclude any existing curb space use.~~

(9) ~~Pushcart operators shall not verbally solicit business from pedestrians or persons in vehicles and shall not sell to persons in vehicles.~~

(10) ~~The price of items sold shall be posted on the pushcart and shall be clearly legible.~~

(11) ~~During hours of operation, pushcarts shall remain in the location specified in the permit.~~

(12) ~~Pushcarts shall not be left unattended, nor shall they remain in the *public right of way* between 12:00 midnight and 6:00 a.m. except for special events as provided in Chapter 2, Article 2, Division 40 (Special Events).~~

(13) ~~An *applicant* that has received a Neighborhood Use Permit for a pushcart shall have an operating cart on the specified site within 60 calendar days of approval or the permit will be void.~~

(14) ~~The permit is valid only when used at the location designated on the permit. The permit shall be displayed in a prominent and visible place on the pushcart.~~

- (15) ~~A Neighborhood Use Permit for a pusheart may not be transferred, but there may be more than one *applicant* for a single permit.~~
- (16) ~~A Neighborhood Use Permit for a pusheart can be revoked or modified in accordance with Sections 121.0313 through 123.0316.~~

DRAFT

**§155.0238 Use Regulations Table of CU Zones**

The uses allowed in the CU zones are shown in Table 155-02C:

**Legend for Table 155-02C** [No change in text]

**Table 155-02C**  
**Use Regulations Table for CU Zones**

Use Categories/Subcategories [See Land Development Code Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	CU-									
	3rd >>	1 <sup>-(1)</sup>		2-			3-				
	4th >>	1	2	3	4	5	3 <sup>(2)(12)</sup>	6	7	8	
Open Space through Separately Regulated Commercial Services Uses [ No change in text]		-			C			C			
Pushcarts:											
Pushcarts on Private Property [No change in text]		-		L			L				
Pushcarts in <i>public right of way</i>		-		N			N				

**156.0308 Base District Use Regulations**

(a) through (b) [No change in text]

<b>Table 156-0308-A: CENTRE CITY PLANNED DISTRICT USE REGULATIONS</b>															
<b>LEGEND:</b> P = Permitted by Right; C = Conditional Use Permit Required; -- = Use Not Permitted; L = Limited Use; N = Neighborhood Use Permit Required; S = Site Development Permit Required; MS = Main Street; CS= Commercial Street; E= Employment Overlay															
<b>Use Categories/ Subcategories</b>	C	NC	ER	BP	WM <sup>7</sup>	MC	RE	I <sup>7</sup>	T <sup>7</sup>	PC	PF <sup>10</sup>	OS	CC <sup>7</sup>	Additional Regulations	MS/CS & E Overlays
<b>Public Park/ Plaza/Open Space through Separately Regulated Commercial Service Uses [No change in text]</b>															
<u>Pushcarts on private property</u>	L/ N	L/N	L/N	L/N	L/N	L/N	--	--	L/N	L/N	L/N	L/N	L/N	§ 141.0619	

**§157.0304 Permitted Uses**

Notwithstanding the uses allowed in Chapter 15, Article 1, Divisions 1 and 4, no building or improvement or portion thereof shall be used except as permitted by this Division. Permitted ground floor uses in the Gaslamp Quarter Planned District are limited to active commercial uses such as restaurants and retail of consumer goods and services. No single user or business shall occupy more than 10,000 square feet on the ground floor of a building except as provided in Section 157.0305(d).

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

(d) Prohibited Uses

The following uses shall be prohibited in the entire District as both *primary* and *accessory uses*:

- (1) card rooms, defined as any establishment open to the public wherein games of any kind are played with cards for any consideration;
- (2) correctional placement facilities pursuant to Section 141.0406;
- (3) drive-through businesses;



- (4) mobile food trucks as described in Section 141.0612; and
- (5) ~~pushcarts in the public right of way.~~

### § 1516.0112 Use Regulations for Old Town San Diego Residential Zones

Legend for Table 1516-01B [No change in text]

Table 1516-01B  
Use Regulations for Old Town 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 >>	OTRS-	OTRM-		
	3rd >>	1-	1-	2-	
	4th >>	1	1	1	2
Open Space <b>through</b> Separately Regulated Commercial Services Uses [No change in text]					
<del>Pushcarts:</del>					
Pushcarts on Private Property		-	-	-	
<del>Pushcarts in Public Right of Way</del>		-	-	-	

# § 1516.0117 Use Regulations Table for Old Town San Diego Commercial Zones

Legend for Table 1516-01D [No change in text]

Table 1516-01D

Use Regulations for Old Town San Diego Commercial 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 >>	OTCC-						OTMCR-		
	3rd >>	1-	2-			3-		1		
	4th >>	1	1	2	3	1	2	1	2	3
Open Space <b>through</b> Separately Regulated Commercial Services Uses [No change in text]										
<del>Pushcarts:</del>										
Pushcarts on Private Property		L		-			L		L	
<del>Pushcarts in Public Right of Way</del>		-		-			-		-	

# § 1516.0122 Use Regulations Table for Old Town San Diego Open Space-Park Zones

Legend for Table 1516-01F [No change in text]

Table 1516-01F

Use Regulations for Old Town San Diego Open Space-Park Zones

Use Categories/ Subcategories [See Section 131.0112 for Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones	
	1st & 2nd >>	OTOP-	
	3rd >>	1-	2-
	4th >>	1	1
Open Space <b>through</b> Separately Regulated Commercial Services Uses [No change in text]			
<del>Pushcarts:</del>			
Pushcarts on Private Property		L	L
<del>Pushcarts in Public Right of Way</del>		-	-