

**SUBJECT:** Proposed text amendment to §1419-21. Limited or Full Service Restaurant and Drinking Establishments

**PURPOSE:**

To obtain input and direction from the Planning Commission on a zoning text amendment as it relates to the parking requirements of outdoor areas of limited or full service restaurants and/or drinking areas.

**PROPOSED TEXT AMENDMENT:**

**§ 1419-21. Limited or Full Service Restaurants and Drinking Establishments.**

Outdoor areas of limited or full service restaurants and drinking establishments must be located, developed and operated in compliance with the following:

- (a) **Residential District Boundary Line.** For the purposes of this section the term "residential district boundary line" shall mean the district boundary line of the SF-20, SF-10, SF-6, SF-4, SF-2, RMX, RM-2.0, RM-1.2, and RM-0.7 districts.
- (b) **Location.** Outdoor areas on any public sidewalk or alley requires a revocable street privilege. Any outdoor area located within 100 feet of a residential district boundary line requires conditional use approval pursuant to the procedures and criteria of Chapter 1445, Variances, Special Exceptions and Conditional Uses.
- (c) **Maximum Size.** Within 500 feet of a residential district boundary line, the outdoor area may not exceed 50 percent of the indoor area accessible to the public. Additional area requires conditional use approval pursuant to the procedures and criteria of Chapter 1445, Variances, Special Exceptions and Conditional Uses.
- (d) **Barriers.** Decorative walls or fencing must enclose an outdoor area.
- (e) **Entertainment.** Within 500 feet of a residential district boundary line, entertainment, including the use of audio/visual equipment or amplified sound is prohibited unless conditional use approval is obtained pursuant to the procedures and criteria of Chapter 1445, Variance, Special Exceptions and Conditional Uses.

- (f) **Fixtures.** Furniture and fixtures provided for use in an outdoor eating area may consist only of movable tables, chairs, umbrellas, planters, lights and heaters. Lighting fixtures may be permanently affixed onto the exterior front of the building. All movable furniture and fixtures must be removed during the off-season.
- (g) **Hours of Operation.** Within 100 feet of a residential district boundary line the use of outdoor areas is prohibited between Midnight PM and 7 AM on Friday and Saturday and 10 PM and 7 AM on all other days unless conditional use approval is obtain pursuant to Chapter 1445 Variance, Special Exception and Conditional Uses. In all other locations, the use of outdoor areas shall be prohibited after 2:00 AM.
- (h) **Breweries and Wineries.** Beer and wine production accessory to a limited or full service restaurant is limited to an area that may not exceed 10,000 sq. ft and may not produce any objectionable odor, dust or fumes.
- (i) **Required Buffer Yards.** Where any side or rear yard of the permitted use abuts a residential district boundary line, a 10 foot buffer area ensuring visual and sonic separation shall be provided pursuant to Chapter 1423-03 Landscaping Plan.
- (j) **Parking Requirements for Outdoor Areas.** ~~Off-street parking shall be calculated at 1 space per 300 square feet of outdoor floor area.~~ Off-street parking ~~facilities~~ spaces must be made permanently available to the use served. [For parking requirements for outdoor areas of eating and drinking establishments see §1425-19-A: Off-street Parking and Loading Requirements.](#)

### **JUSTIFICATION:**

The Economic Development Committee approved the above text amendments on October 3, 2006. However, there is a conflict caused by having the parking requirement for outdoor areas listed in both §1419-21 and §1425-19-A. Section 1419-21 allows a Special Exception to be requested for relief from the parking requirement while §1425-19-A allows a variance to be requested from the parking requirement. The Special Exception criteria are more lenient than the criteria for granting a Variance. Furthermore, removing the regulation from §1419-21, keeps the structure of the Zoning Code consistent. Leaving the parking requirement reference to §1425-19-A in §14991-21 makes the Zoning Code easier to use for the public.

**PUBLIC STAFF CONFERENCE:**

The Planning Division staff held a public conference on this Zoning Text Amendment on Tuesday, August 14, 2007. Those in attendance were not opposed.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommends that the City Planning Commission approve the requested text amendment.

**APPROVED:**

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Margaret A. Wuerstle, AICP, Chief Planner  
Department of Community Development & Planning

7/12/07  
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Amendment Committee