

STREET BUSINESS AREA REGULATIONS

These regulations (“Street Business Area Regulations”) are adopted by the Chief of Police and Director of Public Works pursuant to the Declaration of the Director of Emergency Services of the City of San José Suspending Enforcement of Certain Provisions in Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San José Municipal Code issued July 22, 2020 (“Street Business Area Order”). The City may amend these Street Business Area Regulations at any time and such amendments shall be applicable to any Permits issued thereafter, even if an application had been submitted prior to the amendments. These Street Business Area Regulations shall only apply to Street Business Areas created pursuant to the Street Business Area Order. Terms not defined herein shall have the meanings set forth in the Street Business Area Order.

ENCROACHMENT PERMITS

Each business shall obtain an encroachment permit from the City (“Permit”) prior to operating within a Street Business Area. Permits contain the terms and conditions for a business’ use of a Street Business Area. Each business that obtains a Permit (“Permittee”) shall be responsible for complying with all requirements in its Permit.

ELIGIBLE GEOGRAPHIC AREAS

Street Business Areas shall be limited to the Downtown Core, Neighborhood Business Districts, Urban Villages, Specific Plan Areas and Historic Districts as identified in the Envision San Jose 2040 General Plan.

LOCATION CRITERIA

The City will evaluate the following criteria in determining where to create Street Business Areas:

1. The location for the Street Business Area must have substantial support from businesses and residents abutting the street.
2. Businesses must be the primary land use at the ground level of the Street Business Area.
3. The Street Business Area must not interfere with a public transit route and cannot contain a dedicated bike lane.
4. The Street Business Area cannot be located on a street that serves a police or fire station or medical facility or have the potential to interfere with emergency services.
5. The Street Business Area cannot have driveways or alleys except with the written consent of the owner of such driveway or alley.
6. The Street Business Area must be located on a street with low traffic volume and a posted speed limit of 30 mph or below.
7. The Street Business Area cannot obstruct access to storm inlets, manholes or other utility access points, including above grade utility facilities.
8. The Street Business Area must not create a threat to the public health, safety or welfare.

ALCOHOL IN STREET BUSINESS AREA

Permittees shall comply with all applicable California Alcoholic Beverage Control (“ABC”) regulations regarding alcohol use for their operations within a Street Business Area.

Permittees are solely responsible for securing a valid ABC license to allow/extend business operations within the Street Business Area. A Permit does not constitute approval by the ABC

or City for alcohol use in a Street Business Area.

ALLOWED USES

Only the following uses are allowed in Street Business Areas:

1. Outdoor dining, with or without table service;
2. Business operations; and
3. Customer and general public seating.

HOURS OF OPERATION

Permittees operating in the Downtown Core, as identified in the Envision San Jose 2040 General Plan, may use Street Business Areas daily between of hours of 7 a.m. and 12 a.m. All other Permittees may use Street Business Areas daily between of hours of 7 a.m. and 10 p.m.

STREET BUSINESS AREA USE PARAMETERS

Each business' use of a Street Business Area shall conform to all of the parameters set forth in this section. The City reserves the right to include in a Permit any additional conditions or limitations the City deems necessary based on the Permittee's proposed operations and the location and surrounding physical conditions of, and uses adjacent to, the proposed Street Business Area.

1. Use of a Street Business Area shall not interfere with vehicle or bicycle traffic within the right-of-way that remains open or with pedestrians on the sidewalk adjacent to the Street Business Area;
2. Each permittee shall provide an ADA accessible table and/or route, including ramps to/from the sidewalk, in the Street Business Area if another is not available; and
3. Overhead elements within the Street Business Area, such as umbrellas, shall provide a minimum vertical clearance of seven feet (7') above sidewalk grade and shall not protrude within the sidewalk area or beyond the horizontal boundary of any Traffic Barrier.

All of the following are prohibited in a Street Business Area:

1. Advertising;
2. Amplified sound;
3. Consumption of alcohol except in compliance with a valid ABC license;
4. Smoking;
5. Gas or diesel generators;
6. Electrical cords that cross the public sidewalk;
7. Canopies exceeding 700 square feet and tents exceeding 400 square feet unless permitted separately by the San Jose Fire Department; and
8. Structures of any type unless reviewed and approved separately by Public Works.

STRUCTURE REQUIREMENTS:

Design

1. The roof shall be a minimum height of 7 feet.
2. The roof shall be no more than 12 feet in height.
3. Roof shall slope towards the street to ensure rainwater drains into the street.
4. Gutters and rain leaders are required.

5. No part of the structure or appurtenances shall be anchored or connected to the pavement.

Roof Materials

1. Roof framing can be of wood. However, non-combustible construction is required if greater than 400 square feet.
2. Roofing can be nearly any material except copper.
 - a. Roof coverings greater than 400 square feet are required to be made of non-combustible material. Roof coverings equal or less than 400 square feet are recommended to be made of non-combustible material, but not required.
 - b. Examples of acceptable materials include:
 - i. Metal, including aluminum material
 - ii. Corrugated plastic
 - iii. Fabric, of a solid color with no lettering, no patterns, logos, images, or other designs.
 - c. Roof material shall be of a solid, uniform color.
3. Air Venting can be provided but is not required. Vents can help reduce heat build-up and decrease wind uplift

Submittal Requirements

Submit plans and associated calculations for the following:

1. Roof framing plan
2. Horizontal and vertical bracing system
3. Engineering evaluation to ensure the structure will be secured and not uplift during a storm event

MAINTENANCE AND OPERATIONS

Street Business Area maintenance and operations shall conform to all of the following:

1. During non-business hours, items placed in Street Business Areas such as materials, furniture and equipment shall either be removed from the Street Business Area or secured in such a way as to not interfere with public use of the right-of-way or sidewalk;
2. Food trays or carts may not be stored in Street Business Areas;
3. The Street Business Area area shall be kept in a safe condition at all times, and all landscaping shall be kept in good health;
4. Permittees shall keep Street Business Areas free of litter and debris and keep the portion of the Traffic Barriers within the Street Business Area Area clean and well-maintained; and
5. Permittees shall be solely responsible for waste management, deliveries/loading and similar issues relating to their use of the Street Business Area.