
Article 4(a) Redevelopment Project Area (D-Downtown District) Use Classifications

Sections:

419	Purpose and Applicability
420	Uses Not Classified
421	Residential Use Classifications
422	Public and Semipublic Use Classifications
423	Commercial Use Classifications
424	Accessory Use Classifications
425	Temporary Use Classifications

419 Purpose and Applicability

The uses classifications described herein are only applicable within the Redevelopment Project Area (aka D-Downtown District). The uses describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The City Planner shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this Title. The City Planner may determine that a specific use shall not be deemed to be within a classification, whether or not named within the classification, if its characteristics are substantially incompatible with those typical of uses named within the classification. The City Planner's decision may be appealed to the Community Development Commission.

420 Uses Not Classified

Any new use, or any use that cannot be clearly determined to be in an existing use classification is prohibited. Provided, however, that any new use may be incorporated into the zoning regulations by a Zoning Ordinance text amendment, as provided in Article 45.

421 Residential Use Classifications

- A. Day Care, Limited. Non-medical care and supervision of up to and including fourteen persons on a less than 24-hour basis within a licensee's home for children and adults.
- B. Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes roominghouse/boardhouse, dormitories, fraternities, sororities, and private residential clubs, but excludes residential hotels (see Single-Room Occupancy (SRO) Residential Hotels).
- C. Live/Work Quarters. An area comprising one or more rooms in a building originally

designed for industrial or commercial occupancy that includes cooking space, sanitary facilities, and working space for artists, artisans and similarly activities and Custom Industry uses as defined herein.

- D. Multifamily Residential. Two or more dwelling units on a site. This classification includes mobile home and factory-built housing.
- E. Residential Care, Limited. Twenty-four-hour non-medical care for six or fewer persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.
- F. Single-Family Residential. Buildings containing one dwelling unit located on a single lot. This classification includes mobile home and factory-built housing.
- G. Transitional Housing. Buildings configured as rental housing developments but operated under program requirements that call for the termination of assistance and recirculation of assisted units to other eligible program recipients at some predetermined future point in time, which shall be no less than six months and no more than 24 months from initial occupancy. Transitional housing offers either on or off-site access to social services, counseling, and other programs to assist formerly homeless residents in the transition to permanent housing. This classification does not include facilities licensed for residential care by the State of California or homeless shelters.
- H. Supportive Housing. Rental housing developments receiving assistance under the Multifamily Housing Program regulated through California Code of Regulations, Title 25, Article 7, Section 4. Such housing is occupied by a target population, as defined by Health and safety Code Section 53260(d), and linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing has no limit on length of stay.

422 Public and Semipublic Use Classifications

- A. Child Care. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity and not within a licensee's home for persons under the age of 18.
- B. Clubs and Lodges. Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs, youth, and senior centers.
- C. Convalescent Facilities. Establishments providing care on a 24-hour basis for persons requiring regular medical attention, but excluding facilities providing surgical or emergency medical services.

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- D. Cultural Institutions. Non-profit institutions displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes libraries, museums, and art galleries.
 - E. Day Care, General. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity and not within a licensee's home for persons over the age of 18.
 - F. Emergency Health Care. Facilities providing emergency medical service with no provision for continuing care on an inpatient basis.
 - G. Government Offices. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.
 - H. Hospitals. Facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, primarily on an inpatient basis. This classification includes incidental facilities for outpatient treatment, as well as training, research, and administrative services for patients and employees.
 - I. Park and Recreation Facilities. Noncommercial parks, playgrounds, recreation facilities, and open spaces.
 - J. Public Safety Facilities. Facilities for public safety and emergency services, including police and fire protection.
 - K. Religious Assembly. Facilities for religious worship and incidental religious education and other religious facility related supportive and social services. This use classification specifically excludes private schools as defined in this section. Only Small-scale establishments occupying no more than 5,000 square feet.
 - L. Residential Care, General. Twenty-four-hour non-medical care for seven or more persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.
 - M. Resource Centers. Neighborhood facilities that are City-sponsored or under the control of the City and are used for neighborhood safety, enhancement, education, health care, and other similar neighborhood programs.
 - N. Schools, Public or Private. Educational institutions having a curriculum comparable to that required in the public schools of the State of California.
 - O. Utilities, Major. Generating plants, electrical substations, aboveground electrical transmission lines, lone switching buildings, refuse collection, transfer, recycling or

disposal facilities, water reservoirs, flood control or drainage facilities, water or waste water treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification.

- P. Utilities, Minor. Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines, and recycling centers within convenience zones, as defined by the California Beverage Container Recycling and Litter Reduction Act.

423 Commercial Use Classifications

- A. Adult Business. An Adult Business is any business, where employees, independent contractors, or patrons expose "specified anatomical areas" or engage in "specified sexual activities," or any business which offers to its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities or "specified anatomical areas".

A use which has a majority of its conduct of activities, floor area, stock-in-trade, or revenue derived from, material characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas", shall be considered to be an Adult Business.

Adult Businesses do not include bona fide medical establishments operated by properly licensed and registered medical personnel with appropriate medical credentials for the treatment of patients.

Adult Businesses include, but are not limited to the following:

1. Adult Bookstore/Novelty Store/Video Store. An establishment which has: (1) a substantial or significant portion of its gross revenues or of its stock in trade, books, magazines, and other periodicals or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas"; or (2) a substantial or significant portion of its stock in trade, instruments, devices or paraphernalia designed for use in connection with "Specified Sexual Activities".
2. Adult Entertainment Business. Any establishment that (1) is customarily only open to adults and excludes minors by reason of age, and (2) devotes a substantial or significant portion of its stock in trade to the sale or display of instruments, devices, or paraphernalia which are designed for use in connection with "Specified Sexual Activities".

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3. Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features: (1) persons who appear in a state of nudity; or (2) live performances which are characterized by the exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities"; or (3) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
 4. Adult Motel. A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
 5. Adult Motion Picture Theater. An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
 6. Adult Theater. A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
 7. Figure Studio. Any premises on which the business of furnishing nude models who pose for the purpose of being photographed, sketched, painted, drawn or observed by persons who pay a fee, or other consideration or compensation, or a gratuity, for the right or opportunity to depict or observe the model, or for admission to, or for permission to remain upon, or as a condition for remaining upon, the premises.

The term model shall include: Any person, male or female, who poses nude to be photographed, sketched, painted, drawn or observed.

The term nude shall include: Completely without clothing; or with any pubic area exposed; or with the pubic area covered in such a manner that the private parts are visible or the form thereof discernible; or with the breasts exposed by female so that the nipples thereof are exposed.

"Figure studio" does not include any studio or classroom which is operated by any public agency, or any private post secondary educational institution authorized by California state law to issue and confer a diploma or degree.

8. Peep-Show Establishment. Peep-Show Establishment as defined in the Oceanside City Code.

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- B. Ambulance Services. Provision of emergency medical care or transportation, including incidental storage and maintenance of vehicles.
- C. Animal Sales and Services.
1. Animal Grooming. Provision of bathing and trimming services for animals on a commercial basis. This classification includes boarding of domestic animals for a maximum period of 48 hours.
 2. Animal Product Sales. Retail products associated with domestic animals (dogs, cats, birds, snakes, and small rodents).
 3. **Animal Boarding. Provision of shelter and care for animals on a commercial basis. This classification**
 4. **Animal Hospitals. Establishments where animals receive medical and surgical treatment. This classification includes only facilities that are entirely enclosed, soundproofed, and air-conditioned. Grooming and temporary (30 days) boarding of animals is included if incidental to the hospital use.**
- D. Artists' Studios. Work and display space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft. Only small-scale establishments occupying no more than 5,000 square feet.
- E. Banks and Savings and Loans. Financial institutions that provide retail banking services to individuals and businesses. This classification is limited to institutions engaged in the on-site circulation of cash money including businesses offering check-cashing facilities. This excludes check cashing businesses and loan companies not associated with a bank, credit unions or savings and loan.
1. Drive-through/Drive-up Service. Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.
 2. Self-service Facilities (ATM's). Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.
- F. **Bars and Cocktail Lounges. Any premises designed, used or intended to be used for the selling or serving of alcoholic beverages to the public for consumption on the premises, and in which food is not sold or served to the public as in a bona fide restaurant. Ancillary tasting facilities associated with craft breweries and craft wineries shall not be considered to constitute bars or cocktail lounges as here defined.**

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- G. ~~F.~~ Brewery, Craft.** A small-scale beer manufacturing facility that includes designated floor area (comprising no less than 20 percent and no more than 40 percent of the total floor area) for product sampling and/or retail sales of beer conforming to state requirements.

Retail sales of craft brewery merchandise including mugs, pint glasses, growlers, tap handles, coasters, apparel, signs, bottle openers, and books are also permitted. A craft brewery shall produce a minimum of 250 barrels annually and not exceed a maximum output of 15,000 barrels annually (with a barrel of beer being equal to 31 U.S. gallons). Facilities housing a craft brewery shall not exceed 15,000 square feet of floor area. The category of a craft brewery (based upon floor area and scale of operation) shall determine the appropriate review and approval process, as specified below. Such facilities shall be subject to the following limitations:

1. Other than business name and/or logo, such uses shall not display exterior signage (including advertising directed to the exterior from interior spaces) that promotes the availability of alcoholic beverages.
2. There shall be no amusement or video machines maintained on the premises.
3. There shall be no “happy hour” or regular periods of reduced-priced alcoholic beverages.
4. Amplified live entertainment shall require issuance of an Administrative Use Permit.
5. Ancillary food service involving outdoor equipment (e.g., food trucks) shall require issuance of an Outdoor Facilities Permit.
6. Delivery/distribution activities involving Class 4 or higher vehicles shall not occur between the hours of 10:00 p.m. and 7:00 a.m.
7. Hours of operations shall not extend beyond 10:00 p.m., unless extended hours of operation are approved through a Conditional Use Permit.

Craft breweries shall be regulated under the following tiered review and approval process:

1. Tier 1: Produces at least 250 and no more than 10,000 barrels annually and does not exceed 10,000 square feet of floor area. Tier 1 facilities are subject to approval of an Administrative Conditional Use Permit (ACUP) when not abutting residential zoning districts, schools, and/or churches. Tier 1 facilities abutting residential zoning districts, schools, and/or churches are subject to approval of a Conditional Use Permit (CUP).
2. Tier 2: Produces at least 750 and no more than 15,000 barrels annually and does not

exceed 15,000 square feet of floor area. Tier 2 facilities are subject to approval of a Conditional Use Permit (CUP).

H. Cannabis Distribution Site. A location where cannabis obtained from a licensed cannabis cultivator or cannabis products from a licensed manufacturer is temporarily stored, prior to delivery to a licensed cannabis dispensary and as part of performing a cannabis distributor's duties under state law. A cannabis distributor is a person engaged in the procurement, sale, and transport of cannabis and cannabis products between licensees.

I. Cannabis Manufacturing. The production, preparation and compounding of cannabis and cannabis products, without the use of a volatile solvent. Nonvolatile cannabis manufacturing includes and is not limited to the extraction of a substance from a cannabis plant with nonvolatile solvents, the infusion or mixture of cannabis into another substance, the preparation of an edible item that includes cannabis, and the packaging and labeling of cannabis or cannabis products. Nonvolatile cannabis manufacturing does not include cannabis cultivation.

J. Cannabis Testing Laboratory. Laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products and that is both of the following: (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state. (2) Licensed by the state of California to preform cannabis testing consistent with Business and Professions Code section 26001.

K. ~~H.~~ Catering Services. Preparation and delivery of food and beverages for off-site consumption with provision for on-site pickup or consumption not to exceed 1,000 square feet. (See also Eating and Drinking Establishments.)

L. ~~I.~~ Commercial Recreation and Entertainment. Provision of participant or spectator recreation or entertainment. This classification includes theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors, pool rooms, dance halls, ice/roller skating rinks, golf courses, miniature golf courses, scale-model courses, shooting galleries, tennis/racquetball courts, arcades and games centers having five or more coin-operated game machines and card rooms.

M. ~~J.~~ Communications Facilities. Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding Utilities (Major). This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.

N. ~~K.~~ Food and Beverage Kiosk. An establishment that provides walk-up and/or drive-thru food and beverage services only through a kiosk window for off-site consumption. The sale and consumption of alcoholic beverages is prohibited.

O. ~~L.~~ Food and Beverage Sales. Retail sales of food and beverages for off-site preparation and

consumption. Typical uses include groceries, liquor stores, or delicatessens. Establishments at which 20 percent or more of the transactions are sales of prepared food for on-site or take-out consumption shall be classified as Catering Services or Eating and Drinking Establishments.

1. Convenience Markets. Retail sales of food, beverage and small convenience items typically found in establishments with long or late hours of operation. This classification also includes mini-marts which allows fuel pumps to provide fuel for vehicles.
2. Grocery/Neighborhood Market. Retail sales of food and beverages for off-site preparation and consumption. Principally engaging in the retail sale of staple foodstuffs, household supplies and a sizeable assortment of fresh produce, meats, fish and dairy products. A minimum of 60% of net floor area (excluding storage, aisle ways, check out and customer service areas) shall be dedicated to the sale of staple foodstuffs and fresh items such as produce, meats, fish, and dairy products. (Net Floor Area - The total floor area within the walls of all buildings on a lot or building site, except for the spaces therein devoted to vents, shafts, and lighting courts, and except for the area devoted exclusively to loading and unloading facilities or parking of motor vehicles).
3. Specialty Market. Retail sales of food and beverages for off-site preparation and consumption. Principally engaging and specializing in the retail sales of one specific product line such as produce, meat, fish, etc. Such markets may include the incidental sales of other merchandise directly related to the principal product line.
4. Drive-thru/Drive-up. Service from a building to persons in vehicles through an outdoor service window (Drive-thru) or delivery service to vehicles parked in designated parking spaces (Drive-up).

P. M. General Repair. The repair of small appliances, stereo equipment, electronic pieces and computer. This term does not include the repair of motor vehicles, motor cycles, lawnmowers or garden equipment.

Q. N. Home Occupation. A limited-scale service or fabrication activity, which occurs in a dwelling unit or accessory building and is subordinate to the primary use of the premises for residential purposes, with limitations as set forth within the City of Oceanside business license department.

R. O. Live work lofts. May include “professional services” that do not require client visits, electronics research and development, computer software development, internet-based business and the like are permitted. In addition to paper based and/or home-based occupations such as engineers, architects, consultants, computer specialists, interior designers, lawyers, and real estate professionals

S. P. Maintenance and Repair Services. Establishments providing appliance repair, office machine repair, or building maintenance services. This classification excludes maintenance and repair of vehicles or boats and ships (see Vehicle/Equipment Repair and Marine Sales and Services).

T. Q. Marine Sales, Rentals, and Services. Establishments providing supplies and equipment for shipping or related services, or pleasure boating and recreation. Typical uses include chandleries, yacht brokerage, sales, boat yards, boat docks, and sail-making lofts.

~~**R. Medical Cannabis Distribution Site.** A location where cannabis obtained from a licensed medical cannabis cultivator or medical cannabis products from a licensed medical manufacturer is temporarily stored, prior to delivery to a licensed medical cannabis dispensary and as part of performing a medical cannabis distributor's duties under state law. A medical cannabis distributor is a person engaged in the procurement, sale, and transport of medical cannabis and medical cannabis products between licensees.~~

~~**S. Medical Cannabis Manufacturing.** The production, preparation and compounding of cannabis and cannabis products, without the use of a volatile solvent. Nonvolatile cannabis manufacturing includes and is not limited to the extraction of a substance from a cannabis plant with nonvolatile solvents, the infusion or mixture of cannabis into another substance, the preparation of an edible item that includes cannabis, and the packaging and labeling of cannabis or cannabis products. Nonvolatile cannabis manufacturing does not include medical cannabis cultivation.~~

~~**T. Medical Cannabis Testing Laboratory.** Laboratory, facility, or entity that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following: (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state. (2) Licensed by the state of California to perform medical cannabis testing consistent with Business and Professions Code section 26001.~~

U. Offices, Business and Professional. Offices of firms or organizations providing professional, executive, management, or administrative services. Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, engineering, real estate, insurance, investment, legal, and medical/dental offices. This classification includes medical/dental laboratories incidental to an office use, but excludes banks and savings and loan associations.

1. Administrative/Business. Establishments providing direct services to clients, including insurance agencies, real estate offices, post offices (not including bulk mailing distribution centers).

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2. ~~**Production.** Office-type facilities occupied by businesses engaged in the production of intellectual property. These uses include: advertising agencies, architectural, engineering, planning and surveying services, computer software production and programming services, educational, scientific and research organizations, media postproduction services, photography and commercial art studios, writers and artist's offices.~~
 3. ~~**Professional.** Professional or government offices including: Accounting, auditing and bookkeeping services, attorneys, counseling services, court reporting services, data processing services, detective agencies and similar services, employment, stenographic, secretarial and word processing services, government offices, literary and talent agencies, management and public relations services~~
 4. ~~**Temporary.** A mobile home, recreational vehicle or modular unit used as temporary office facility. Temporary Offices may include: construction supervision offices on a construction site or off-site construction yard; a temporary on-site, which is converted to residential use at the conclusion of its office use.~~
 5. ~~**Temporary Real Estate.** The temporary use of a dwelling unit within a residential development project as a sales office for the units on the same site, which is converted to residential or commercial use at the conclusion of its office use.~~

V. Pawn Shops. Establishments engaged in the buying or selling of new or secondhand merchandise and offering loans secured by personal property and subject to Chapter 22 of the Municipal Code. This definition does not include Junk as defined as old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, wastes, machinery, scrap wood, or junked, dismantled or wrecked automobiles, or parts thereof; iron, steel, and other old or scrap ferrous or nonferrous material. Includes any other definitions of junk established in City ordinances.

W. Personal Improvement Services. Provision of instructional services or facilities, including: photography, fine arts, crafts, dance or music studios; driving, business or trade schools; diet centers, or reducing salons; and health/fitness studios, spas or clubs.

- a. Health/Club/Studio/Spa. Establishments with equipment for exercise and physical conditioning. Facilities offering the use of exercise equipment for public use, and services such as, expertise and instruction for fitness training, weight loss, yoga and aerobics classes. ~~**Does not include massage or other medically related services.**~~

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- b. Day Spa. A day or full-service spa must provide at least four different types of services and all services must be provided on the premises during regular business hours and include some type of instructional service. These services may include any of the following: facial therapies, body treatments, hair removal, nail care, salon care, makeup application, permanent cosmetic makeup, skin care treatments, therapeutic massage, aromatherapy, hydrotherapy, and instructional services such as; nutritional counseling, weight management, stress management, medical evaluations, and fitness activities such as; private or personal fitness training, yoga, meditation, and retail products such as; skin and body care products, work out or spa clothing, juice bar, spa or health food cuisine, health food products.
- i. All services shall be administered by licensed cosmetologists, estheticians or similar professionals and should offer a vast array of the highest quality skin, body, health care, and fitness services. At a minimum spa's establishment must be: clean, and safe environment; have private treatment rooms for clients receiving a personal service; business licenses; professional, licensed estheticians and therapists; professional spa products for which estheticians and therapists have received training in their use; and have showering and changing facilities for women and men (when necessary).
- c. Accessory Massage. Massage only permitted as an incidental use to a primary use listed above, with a use permit and must abide by all other City Ordinances and Codes.
- d. **Small Scale. Establishments occupying no more than 5,000 square feet.**

X. Personal Services. Provision of services of a personal nature. This classification includes: tattooing establishments, body piercing establishment, escort services, barber and beauty shops, bathhouses, seamstresses, tailors, shoe repair shops, laundry and dry cleaning agencies (excluding large-sale plants - see Section 15.C.1), photo-copying, word processing, packaging, postal and office supply support facilities, and self-service laundries.~~This classification includes: photo-copying, word processing, packaging, postal and office supply support facilities and tattooing establishments.~~

1. ~~Laundromat/Cafe. A commercial establishment offering self-serve and assisted laundry facilities for public use in conjunction with some type of food or beverage service.~~
2. ~~General Repair. The repair of small appliances, stereo equipment, electronic pieces and computers. This term does not include the repair of motor vehicles, motorcycles, lawnmowers or garden equipment.~~
1. Tattooing Establishment. Any establishment or business engaged in "tattooing" as

defined in the Oceanside City Code, excluding “micropigmentation” or “permanent cosmetic makeup” typically provided at beauty salon or day spas.

2. **Body Piercing Establishment. Any establishment or business engaged in “body piercing”. Body piercing means the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose, eyebrow, naval, male genitals, female breasts or female genitals. “Body piercing” does not include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.**
3. **Escort Services. Any premises where patrons can purchase the social company or companionship of another person.**
4. **Limited. Excludes laundry and dry-cleaning agencies and self-service laundries.**
5. **Small-scale. Establishments occupying no more than 2,500 square feet.**

Y. Research and Development Services. Establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electronic research firms, pharmaceutical research laboratories, and medical testing and analysis, but excludes manufacturing, except of prototypes. This classification excludes ~~Medical Cannabis Testing Laboratories.~~

Z. Restaurants Fast Food. A bona fide restaurant establishment where the principal business is the sale of prepared or rapidly prepared food and beverages to guests via counter, walk up, or window service for consumption on or off the premises. The sale beer and wine for on-site consumption is permitted. As used in this definition, a “bona fide” restaurant shall have suitable kitchen facilities for cooking and/or preparation of meals. The word “meals” means the assortment of foods commonly ordered at various hours of the day.

3. **Restaurant Fast Food with Drive-thru or Drive-up.** A restaurant establishment providing service from a building to patrons in vehicles through an outdoor service window (Drive-thru) or delivery service to vehicles parked in designated parking spaces (Drive-up). The sale and consumption of alcoholic beverages at a restaurant with a Drive-thru or Drive-up window is prohibited.

AA. Restaurants Full Service. A bona fide restaurant establishment where the principal business is the sale of food and beverages to guests via table service for consumption on the premises. The sale of beer and wine for on-site consumption shall be considered incidental to the full-service restaurant. Delivery service to vehicles parked in designated parking spaces (i.e. drive-up) is allowed as an ancillary service to the Restaurant Full

Service. As used in this definition, a “bona fide” full service restaurant shall have suitable kitchen facilities for cooking of complete meals. The word “meals” means the assortment of foods commonly ordered at various hours of the day; the service of only such foods as sandwiches or salads does not meet the bona fide restaurant definition.

1. Restaurants Full Service with Full Alcohol. A bona fide restaurant establishment authorized to sell distilled spirits for consumption on licensed premises. The sale of liquor is included as an appurtenant use to full service restaurants having table seating and service for more than 50 guests.
2. Restaurants Full Service with Live Entertainment – (small-scale). Restaurant establishments providing live entertainment to patrons with 5 or fewer performers at restaurant facilities with no dance floor during typical lunch and dinner hours (11:00 a.m. – 11:00 p.m.) and having 75 percent food sales compared to alcohol sales.

BB. Retail (General) Sales. The retail sale of merchandise not specifically listed under another use classification. This classification includes artist supplies, bakeries, bicycles, books, cameras and photographic supplies, clothing and accessories, department stores, drug stores, dry goods, fabrics and sewing supplies, florist and houseplants, hobby material, jewelry, luggage and leather goods, home improvement stores, furniture stores, handcrafted items, jewelry, cameras, photographic supplies (including limited processing), electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, art supplies and services, paint and wallpaper, carpeting floor covering, office supplies, bicycles, and musical instruments, parts and accessories, specialty shops, religious goods, sporting goods and equipment, stationery, toys and games and variety stores.

1. Antiques, Antique Shop. Any article which, because of age, rarity or historical significance, has a monetary value greater than the original value, or which has an age recognized by the United States Government as entitling the article to an import duty less than that prescribed for contemporary merchandise. A store or shop selling only such articles or offering them for sale shall be considered as an antique shop or store, and not considered as a dealership handling used or secondhand merchandise.
2. Custom Retail. Establishments primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts; and the direct sale to consumers of those goods produced on-site.

Products made incident to a permitted use may be sold at retail on the premises, and not more than three (3) people shall be employed in the production process. Typical uses include but are not limited to ceramic studios, candle-making shops, and custom jewelry production.

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3. Secondhand Furniture, Appliance, "Collectible" and Clothing Sales. The retail sale of used furniture, appliances, "collectibles" and clothing, and secondhand dealers who are subject to Chapter 22 of the Municipal Code. This classification excludes antique shops primarily engaged in the sale of antique furniture and accessories. Only small establishments occupying no more than 5,000 square feet.
 4. Wine and Beer Tasting. Retail establishments for the sale of bottled wine and/or **beer** which offer ~~wine~~ tasting and the sale ~~of wine~~ for on-site consumption in connection with the marketing of wines **and beers** offered for sale on the premises. With the exception **the establishment produced** of wine and ~~featured micro-~~**brews beer**, no beverages or items containing alcohol shall be offered for sale or consumed on the premises. Non-alcoholic retail items associated with wine drinking such as wine glasses, decanters, ice buckets, toppers, serving implements, snack foods and non-alcoholic beverages may also be offered for sale. **Wine Tasting** shall only occur in an enclosed area not accessible for persons under the age of 21.

CC. Sex Supermarket/Sex Mini-Mall. The establishment or operation within the same building of more than one of any of the following Adult Businesses: adult bookstore or adult video store, adult cabaret, adult entertainment business, adult motion picture theater, adult theater, or peep-show establishment.

DD. Travel Services. Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies.

EE. Automotive Rental (small scale). Rental of vehicles; limited to five rental cars.

FF. Visitor Accommodations

1. Bed and Breakfast Inns. Establishments offering lodging on a less than weekly basis in a converted single-family or multi-family dwelling, with incidental eating and drinking service for lodgers only provided from a single kitchen.
2. Hotels and Motels. Establishments offering commercial lodging on a less than monthly basis. This classification includes incidental eating, drinking, and banquet services intended for the convenience of guests.
5. Timeshare. A facility or arrangement, plan, or similar program, other than an exchange program, whereby a purchaser receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.
4. Fractional Ownership Hotel. A facility providing overnight visitor

accommodations where at least some of the guestrooms are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners. When a fractional ownership unit is not occupied by one of its owners, that unit shall be made available to the general public through the hotel operator. If a Fractional Ownership Hotel includes traditional hotel units, the facility may use those rooms alone or in combination with its fractional units to satisfy any requirement that a substantial portion of its units be permanently reserved for transient overnight accommodations in the summer season, which is Memorial weekend through Labor Day.

5. Condominium Hotel. ~~Condominium Hotel~~— Any Facility providing overnight visitor accommodations where ownership of at least some of the individual guestrooms (units) within the larger building or complex is in the form of separate condominium ownership interests, as defined in California Civil Code section 1351(f). The primary function of the Condominium Hotel is to provide overnight transient visitor accommodations within every unit that is available to the general public on a daily basis year-round, while providing both general public availability and limited owner occupancy of those units that are in the form of separate condominium ownership interests.
6. Resort. A resort is defined as a full-service hotel of greater than 200 rooms with pool, spa, or similar amenities and full-service restaurant.
7. Limited Use Overnight Visitor Accommodation. A facility providing overnight visitor accommodations that includes both traditional hotel lodging and some combination of fractional interests, time shares, or condo-hotel units. Limited Use Overnight Visitor accommodations shall only be allowed in the Downtown “D” District, if no more than 25% of the total rooms in such facility consist of some combination of fractional timeshare or condo-hotel units; however, no more than 15% of the total rooms in a Limited Use Overnight Visitor Accommodation may be Fractional Interest units. A Limited Use Overnight Visitor Accommodation is exempt from any requirement that a substantial portion of its units be permanently reserved for transient overnight accommodations in the summer season, which is Memorial weekend through Labor Day.

GG. Visitor Accommodations-Special requirements

1. Hotel Owner/Operator – For a Limited Use Overnight Visitor Accommodation, as defined below, a Hotel Owner/Operator is defined as the entity that owns and operates a hotel. If the hotel operator is separate from the hotel owner, each shall be severally responsible for complying with the requirements described in the Local Coastal Plan and/or recorded against the property, as well as severally liable for violations of said requirements and restrictions. The owner/operator shall

manage all guestrooms/units as part of the hotel inventory, which management shall include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing units for use by guest and owners. The owner/operator shall retain control of all land, structures, recreational amenities, meeting spaces, restaurants, “back of house” and other guestroom facilities.

2. Hotel Conversion - Any hotel rooms for which a Certificate of Occupancy has been issued at the effective date of adoption of this section shall not be converted to a Limited Use Overnight Visitor Accommodation.
3. New Limited Use Overnight Visitor Accommodation projects will be required to prepare Covenants, Conditions, and Restrictions (CC&Rs) that shall be recorded concurrently with the recordation of all tract maps against all individual property titles reflecting the use restrictions and will conform to the restrictions outlined below.
4. Limited Occupancy. An owner of a timeshare interest, fractional interest or a condo hotel unit (or, if there are multiple owners of a condo hotel unit, all owners of that unit combined), and their guests, may occupy their unit no more than 90 days per calendar year with a maximum of 29 days of use during any 60-day period.
5. Condominium Hotels. Such development is subject to the following conditions/restrictions:
 - a) Any overnight visitor accommodations for which a certificate of occupancy has been issued prior to or on the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Overnight Visitor Accommodation. Nothing in the preceding sentence shall prohibit, on and after the effective date of adoption of this Section, the conversion of hotel rooms in an approved Limited Use Overnight Visitor Accommodation to timeshare, fractional or condominium-hotel units; provided that after any such conversion, the ratio of timeshare, fractional and condominium-hotel units does not exceed that required under the definition of “Limited Use Visitor Overnight Accommodations” in effect as of the date of approval of the project, with an approved amendment to the coastal development permit for the project.
 - b) A maximum of 25% of the total number of guestrooms/units in the total project as a whole may be subdivided into condominium hotel units and sold for individual ownership.
 - c) The hotel owner/operator shall retain control through ownership, lease, easements, or other legal means, of all structural elements, recreational

amenities, meeting space, restaurants, “back of house” and other non-guest unit facilities. The hotel operator must be the same entity for both the traditional hotel guestroom/units and the condo hotel units.

- d) The Condominium Hotel facility shall have an on-site hotel operator to manage booking of all guestrooms/units (both traditional and condo hotel guestrooms/units). Whenever any individually owned hotel unit is not occupied by its owner(s), that unit shall be available for use by the general public, either through the operator or a rental agent other than the operator, on the same basis as a traditional hotel room.
- e) As used in this Section 5, the term “ to book” or “booking” shall mean the confirmation of a reservation request for use of a Condominium-Hotel unit by either the owner of the unit, the owner’s permitted user or by a member of the public, and the entry of such confirmation in the operator’s reservation data base. Each owner of a Condominium-Hotel unit shall have the right, in its sole discretion, to engage either the operator or a rental agent of his or her choice to serve as the rental agent for their unit, but any engagement of a rental agent other than the operator shall be on a non-exclusive basis. The operator shall have the right and obligation to offer for public rental all time periods not reserved by a Condominium-Hotel unit owner for his or her personal use, or for the use of an owner’s permitted user, or reserved for use by a public renter procured by an owner’s rental agent who is not the operator. Whether or not the hotel operator is selected as an owner’s exclusive rental agent, the operator shall manage the booking and the reservation of all units in the Condominium-Hotel. All Condominium-Hotel unit owners, and their rental agents, must comply with the following restrictions:
1. Condominium-Hotel unit owners shall not discourage rental of their units or create disincentives meant to discourage rental of their units;
 2. As more fully described in Section 5(t), below, Condominium- Hotel unit owners shall report and certify the rental rate and terms of any rental of the owner’s unit made independently of the operator, and the operator shall

book all unit reservations in the operator's reservation database, a service for which the operator may charge the Condominium-Hotel unit owner a reasonable fee;
 3. Based on its own rentals and also those certified by those owners who have reported rentals made by them directly or by another rental agent they have selected, pursuant to Section 5(t) below, the operator shall maintain records of usage for all units and the rental terms of such usage, and shall be responsible for reporting Transient Occupancy Taxes for all units, services for which the operator may charge the Condominium-Hotel unit

owner a reasonable fee.

- f) The hotel operator shall market all rooms to the general public. Owners of individually owned hotel units may also independently market their units, but all booking of reservations shall be made by and through the hotel operator.
- g) The hotel operator shall manage all guestrooms/units as part of the hotel inventory of the Condominium Hotel, which management will include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing guestrooms/units for use by guests/owners, a service for which the operator may charge the unit owner a reasonable fee.
- h) If the hotel operator is not serving as the exclusive rental agent for an individually owned unit, then the hotel operator shall nevertheless have the right, working through the individually owned units' owners or their designated agents, to book any unoccupied room to fulfill public demand. The owner or an owner's rental agent may not withhold units from use unless they have already been reserved for use by the owner, consistent with the owner's maximum use right, as set forth in Section 5(1), below. In all circumstances, the hotel operator shall have full access to the unit's reservation and booking schedule so that the operator can fulfill its booking and management obligations hereunder.
- i) All guestrooms/unit keys shall be electronic and created by the hotel operator upon each new occupancy to control the use of the individually owned units.
- j) All individually owned hotel units shall be rented at a rate similar to that charged for the traditional hotel rooms of a similar class or amenity level in the California coastal zone.
- k) The hotel operator shall maintain records of usage by owners and guests and rates charged for all guestrooms/units and shall be responsible for reporting

Transient Occupancy Taxes for all units, services for which the operator may charge the Condominium-Hotel unit owner a reasonable fee.
- l) Each individually owned hotel unit shall be used by its owner(s) (no matter how many owners there are) or their guests for not more than 90 days per calendar year with a maximum of 29 consecutive days of use during any 60-day period.
- m) The occupancy limitations identified in Section 5(k) above, shall be unaffected by multiple owners of an individually owned hotel unit or the sale of a unit to a new owner during the calendar year, meaning that all such owners of any

given unit shall be collectively subject to the occupancy restriction as if they were a single continuous owner.

- n) No portion of the Condominium Hotel may be converted to full-time occupancy of a condominium or any other type of Limited Use Overnight Visitor Accommodations or other project that differs from the approved Condominium-Hotel, other than as provided for in Section 5(a), above.
- o) Prior to issuance of a building permit and in conjunction with approval of a coastal development permit for a Condominium Hotel within the Downtown “D” District, the landowner(s) of the property upon which the traditional guestrooms/units (i.e. transient hotel rooms) are developed shall execute and record a deed restriction(s), subject to the review and approval of the City Planner and the Executive Director of the Coastal Commission, which prohibits the conversion of those traditional hotel guestrooms/units to any other type of ownership (e.g. timeshares or condo-hotel units, except as provided in Section 5(a) above) without an approved coastal development permit. The deed restriction shall be submitted for review and approval of the City Planner and the Executive Director of the Coastal Commission prior to issuance of the coastal development permit. The deed restriction shall run with the land, shall be executed and consented to, through recordation of a lease restriction, by any existing lessee(s) of the affected property(ies) and shall be binding on the landowner(s) and any lessee(s), and on all successors and assigns of the landowner(s) and any lessee(s), including without limitation any future lien holders. This deed restriction(s) shall not be removed or changed without approval of an amendment to the underlying coastal development permit and approval of an amendment to the LCP by the Coastal Commission. However, minor changes that do not conflict with Sections 5(a) through (n) above may be processed as an amendment to the coastal development permit, unless it is determined by the City Planner and the Executive Director of the Coastal Commission that such an amendment is not legally required.
- p) The hotel owner shall be required to submit, prior to issuance of a coastal development permit, for the review and approval of the City Planner for review and approval and to the Executive Director of the Coastal Commission for review and comment, a Declaration of Restrictions or CC&Rs (Covenants, Conditions & Restrictions) which shall include:
 - 1. All the specific restrictions listed in Sections 5(a) through (n) above;
 - 2. Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
 - 3. A statement that provisions of the CC&Rs (Declaration of Restrictions) that reflect the requirements of Sections 5(a) through (n) above, cannot be

changed without approval of an LCP amendment by the Coastal Commission and subsequent coastal development permit amendment. However, minor changes that do not conflict with Sections 5(a) through (n) above may be processed as an amendment to the coastal development permit, unless it is determined by the City Planner that an amendment is not legally required. If there is a section of the CC&Rs (Declaration of Restrictions) related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the CC&Rs (Declaration of Restrictions) on amendments.

- q) The CC&Rs (Declaration of Restrictions) described above shall be recorded against all individual property titles simultaneously with the recordation of the subdivision map for the Condominium Hotel.
- r) The provisions of the CC&Rs (Declaration of Restrictions) described above shall not be changed without approval of an amendment to the LCP by the Coastal Commission. However minor changes that do not conflict with Sections 5(a) through (n), above, may be processed as an amendment to the coastal development permit, unless it is determined by the City Planner, after a copy of the proposed amendments have been submitted to the Executive Director of the Coastal Commission for comment, that an amendment is not legally required.
- s) The hotel owner/operator or any successor-in-interest shall be responsible for ensuring that through no act or omission will it assist, enable or in any other manner facilitate any other party subject to these restrictions in violating any of these terms and conditions. Each owner of an individual guestroom/unit is severally liable for any and all violations of the terms and conditions imposed
- by the special conditions of the coastal development permit with respect to the use of that owner's unit. Violations of the coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.
- t) All documents related to the marketing and sale of the condominium interests, including marketing materials, sales contracts, deeds, CC&Rs and similar documents, shall notify buyers of the following:
1. Each owner of any individual Condominium Hotel unit is severally liable for any violations of the terms and conditions of the coastal development permit with respect to the use of that owner's unit; and
 2. The occupancy of a Condominium Hotel unit by its owner(s) and their

guests is restricted to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, and when not in use by the owner, the unit shall be made available for rental by the hotel operator to the general public pursuant to the terms of the coastal development permit and that the coastal development permit contains additional restrictions on use and occupancy; and

2. Each owner of a Condominium Hotel unit who does not retain the operator of the hotel as his or her rental agent shall be obligated by the governing documents of the Condominium Hotel to truthfully report to the operator (and to certify each such report) each effort, if any, he or she has made to rent his or her unit to a member of the public, and the terms and conditions of any such offer, and the terms and conditions of each rental offer which has been accepted by a member of the public.
 - u) The hotel owner/operator and any successor-in-interest hotel owner or operator, and each future individual unit owner shall obtain, prior to sale of individual units, a written acknowledgement from the buyer that occupancy by the owner is limited to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period that the unit must be available for rental by the hotel operator to the general public when not occupied by the owner, and that there are further restrictions on use and occupancy in the coastal development permit and the CC&Rs (Declaration of Restrictions).
 - v) The hotel owner/operator and any successor-in-interest hotel owner or operator shall monitor and record hotel occupancy and use by the general public and the owners of individual hotel guestrooms/units throughout each year. The monitoring and record keeping shall include specific accounting of owner usage for each individual Condominium Hotel guestroom/unit. The records shall be sufficient to demonstrate compliance with the restrictions set forth in Sections 5(a) through (n) above. The hotel owner/operator shall also maintain documentation of rates paid for hotel occupancy and of advertising and marketing efforts. All such records shall be maintained for ten years and shall be made available to the City Planner and the Executive Director of the Coastal Commission upon request and to any auditor required by Section 5(w) below. Within 30 days of commencing hotel operations, the hotel owner/operator shall submit notice to the City Planner and to the Executive Director of the Coastal Commission of commencement of hotel operations.
 - w) Within 120 days of the end of the first calendar year of hotel operations, the hotel operator shall retain an independent auditing company, approved by the City Planner, to perform an audit to evaluate compliance with the special conditions of the coastal development permit which are required by this

Section regarding occupancy restrictions, notice, recordkeeping, and monitoring by the hotel owner/operator. The hotel operator shall instruct the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the City Planner, for review and approval, and shall be available to the Executive Director of the Coastal Commission upon request, within six months after the conclusion of the first year of hotel operations. Within 120 days of the end of each succeeding calendar year, the hotel operator shall submit a report regarding compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the Condominium Hotel to the City Planner and the Executive Director of the Coastal Commission. The audit required after the first year of operations and all subsequent reports shall evaluate compliance by the hotel operator and owners of individual Condominium Hotel guestrooms/units during the prior one-year period. After the initial five calendar years, the one-year reporting period may be extended to two years upon written approval of the City Planner. The City Planner may grant such approval if each of the previous reports revealed compliance with all restrictions imposed above. The City Planner or the Executive Director of the Coastal Commission may, by written notice to the operator, require a third-party audit regarding the subject matter of the reports required in this section for the prior three (3) or fewer calendar years if he or she reasonably believes that the foregoing submitted reports are materially inaccurate. The governing documents for the Condominium Hotel shall require the operator and each owner of a condominium to fully cooperate with and to promptly produce any existing documents and records which the auditor may reasonably request. The expense of any such audit shall be payable by the owner's association for the Condominium Hotel project.

- x) The hotel owner/operator, or any successor-in-interest, shall be responsible for complying with the terms and conditions stated above at all times in perpetuity and shall be liable for violating these terms and conditions. If the hotel owner and the hotel operator are or at any point become separate entities, the hotel owner and the hotel operator shall each be severally responsible for complying with the requirements identified above, and for reporting material non-compliance to the City Planner. If the hotel owner and hotel operator are or become separate entities, they shall be severally liable for violations of the terms and conditions (restrictions) identified above.
- y) A coastal development permit application for a Condominium Hotel shall include a plan specifying how the requirements outlined in Article 4(a) Section 450 "T" of the Zoning Ordinance will be implemented. The plan must include, at a minimum, the form of the sale, deed and CC&Rs (Declaration of Restrictions) that will be used to satisfy the requirements and the form of the rental program agreement to be entered into between the individual unit

owners and the hotel owner/operator. The plan must demonstrate that the applicant will establish mechanisms that provide the hotel operator and any successor-in-interest hotel operator adequate legal authority to implement the requirements of Article 4(a) Section 450 “T” of the Zoning Ordinance above. An acceptable plan meeting these requirements shall be incorporated into the special conditions of approval of any coastal development permit for a Condominium Hotel. Any proposed changes to the approved plan and subsequent documents pertaining to compliance with and enforcement of the terms and conditions required by Section Article 4(a) Section 450 “T” of the Zoning Ordinance and this section including deed restrictions and CC&Rs (Declaration of Restrictions) shall not occur without an amendment to the coastal development permit, unless it is determined by the City Planner, after a copy has been delivered to the Executive Director of the Coastal Commission for review and comment, that an amendment is not legally required.

6. The Fractional Ownership Hotel and the Traditional Hotel which together comprise a Limited Use Overnight Visitor Accommodations are subject to the following conditions/restrictions:

a) As used in Section 6, the following terms are defined as:

(i) “booking” or “to book” shall mean the confirmation of a reservation request for use of a Fractional Ownership Hotel unit by either the owner of a Fractional Interest, his permitted user, an Exchange User or by a member of the public, and the entry of such confirmation in the operator’s reservation data base.

(ii) “Exchange Program” means the use of a unit in a Fractional Ownership Hotel by a member who is the owner of occupancy rights in a unit of a fractional project other than the Fractional Ownership Hotel, or in the Fractional Ownership Hotel during time periods other than the particular time period for which a unit in the Fractional Ownership Hotel has been reserved for exchange, pursuant to a program:

(a) in which the owners of fractional interests in fractional interest projects other than the Fractional Ownership Hotel is operated and/or managed by the operator of the Fractional Interest Hotel or by another entity, or

(b) which is operated by an entity that specializes in interval exchanges, where such member has exchanged their occupancy rights for the use of a Fractional Ownership Hotel unit during the particular time period for which a unit in the Fractional Ownership Hotel has been reserved for exchange.

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- (iii)“Exchange Use” means the use of a unit in the Fractional Ownership Hotel pursuant to an Exchange Program.
- (iv)“Exchange User” means a person who is occupying a Fractional Ownership Hotel unit for Exchange Use.
- (v)“Fractional Interest” means a Timeshare in a Fractional Ownership Hotel where the undivided interest in a condominium conveyed to an owner is greater than a 1/26th undivided interest, or, if the Fractional Ownership Hotel is not subdivided into condominiums, in which the undivided interest conveyed to an owner is greater than a 1/26 x (the number of units in the Fractional Ownership Hotel) undivided interest in the legal parcel comprising the Fractional Ownership Hotel.
- (vi)“Fractional Ownership Hotel” means the portion of a Limited Use Overnight Visitor Accommodation in which ownership of individual units is comprised of Fractional Interests.
- (vii)“Traditional Hotel” means the portion of a Limited Use Overnight Visitor Accommodation that is operated as a traditional hotel (i.e. the guestrooms are not owned or operated as timeshares or fractional units).
- b) Any overnight visitor accommodations for which a certificate of occupancy has been issued prior to or on the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Visitor Overnight Accommodation. Nothing in the proceeding sentence shall prohibit, on and after the effective date of adoption of this Section, the conversion of units in a Fractional Interest project or Condominium Hotel to Fractional Interest or Condominium Hotel units; provided that after any such conversion, the ratio of Fractional Interest and Condominium Hotel units does not exceed that required under the definition of “Limited Use Visitor Overnight Accommodations” in effect as of the date of approval of the project.
- c) A maximum of 15% of the total number of guestrooms/units in the project as a whole may be subdivided into Fractional Interests.
- d) Either the owner/operator of the Traditional Hotel or the owner or operator of the Fractional Ownership Hotel shall retain control through ownership, lease, easements, or other legal means, of all structural elements, recreational amenities, meeting space, restaurants, “back of house” and other non-guest unit facilities for both the Traditional Hotel and the Fractional Ownership Hotel.

e) The Fractional Ownership Hotel facility shall have an on-site hotel operator to manage rental/booking of all guestrooms/units in the Fractional Ownership Hotel. The on-site hotel operator for the Fractional-Ownership Hotel may be a different entity from the on-site hotel operator for the Traditional Hotel in the Limited Use Overnight Visitor Accommodation of which the Fractional Ownership Hotel is a part. Each Fractional Interest owner shall have the right, in its sole discretion, to engage a rental agent of his or her choice, other than the operator, to serve as the rental agent for their Fractional Interest, but any engagement of a rental agent other than the operator shall be on a non-exclusive basis commencing sixty (60) days in advance of a time period the owner has a right to reserve and use under the governing documents for the Fractional Ownership Hotel. The operator of the Fractional Ownership Hotel shall have the right and obligation to offer for public rental all time periods not reserved by a Fractional Interest owner for his or her personal use, for “Exchange Use” or for use by an owner’s permitted user sixty (60) days in advance of any such occupancy period. On and within this sixty (60) day window, members of the public shall have reservation rights equal to those for owners, their permitted users and Exchange Users. The Fractional Ownership Hotel operator shall manage the booking of the reservation of all guestrooms/units in the Fractional Ownership Hotel. All Fractional Interest owners, and their rental agents, must comply with the following restrictions:

(i) except for their personal use, or use by an owner’s permitted users or an Exchange User, Fractional Interest owners shall not discourage rental of their units or create disincentives meant to discourage rental of their units during their fractional time periods;

(ii) Fractional Interest owners shall certify the rental rate and terms of any rental of the owner’s occupancy periods made independently of the operator, and the hotel operator shall book all unit reservations in the operator's reservation database, a service for which the operator may charge the Fractional Interest owner a reasonable fee;

(iii) The Fractional Ownership Hotel operator shall maintain records of usage for all units and the rental terms of such usage, and shall be responsible for reporting Transient Occupancy Taxes for all units, services for which the operator may charge the Fractional Interest owner a reasonable fee.

f) The operator shall market the rental of available units in the Fractional Ownership Hotel to the general public and shall have a right to charge each Fractional Interest owner a reasonable fee for such marketing.

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- g) Subject to the requirements of the California Business and Professions Code pertaining to management agreements for Timeshare plans, including, without limitation, restrictions on the term of such management agreements, the operator shall manage all units in a Fractional Ownership Hotel, which management will include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing units for use by guests/owners, a service for which the hotel operator may charge the unit owner a reasonable fee.
- h) The operator, as the non-exclusive rental agent for the owner of a Fractional Interest entitled to an occupancy period, shall offer for rent to the public any guestroom/unit which has not been reserved by its owner, his or her permitted user or an Exchange User commencing sixty (60) days in advance of such occupancy period. No Fractional Interest owner or such owner's rental agent may withhold units which have not been reserved by the owner or such owner's permitted users or an Exchange User sixty (60) days or less prior to the commencement of an occupancy period from rental to the public. Nothing in the preceding sentence shall mean that an owner of a Fractional Interest, or such owner's permitted users or an Exchange User, may not elect to reserve a unit in a Fractional Ownership Hotel at any time after the commencement of such sixty (60) day period, provided that the operator or the owner's rental agent has not then rented the unit to a member of the general public. In all circumstances, the Fractional Ownership Hotel operator shall have full access to the guestroom/unit's reservation and booking schedule so that the operator can fulfill its booking and management obligations hereunder.
- i) All guestrooms/unit keys shall be electronic and created by the operator upon each new occupancy to control the use of the individually owned Fractional Ownership Hotel units.
- j) All individually owned Fractional Ownership Hotel units shall be rented at a rate similar to that charged for traditional hotel rooms of a similar class or amenity level in the California coastal zone.
- k) Each individually owned Fractional Interest shall be used by its owner(s) or their guests to occupy a unit in a Fractional Ownership Hotel for not more than 90 days per calendar year with a maximum of 29 consecutive days of use during any 60-day period.
- l) The use period limitations identified in Section 6(k) above, shall be unaffected by multiple owners of a Fractional Interest or the sale of a Fractional Interest to a new owner during the calendar year, meaning that all such owners of any given Fractional Interest shall be collectively subject to the use restriction in this Section 6 as if they were a single,

continuous owner. No portion of a Fractional Ownership Hotel may be converted to a full-time occupancy condominium or to any other type of a Limited Use Overnight Visitor Accommodation other than as provided for in Section 6(b) above.

- m) Prior to issuance of a building permit and in conjunction with approval of a coastal development permit for the Limited Use Overnight Visitor Accommodation of which the Fractional Ownership Hotel is a part, the landowner(s) of the property(ies) within the Downtown “D” District upon which the associated Traditional Hotel is developed shall execute and record a deed restriction(s), subject to the review and approval of the City Planner after delivery to the Executive Director of the Coastal Commission for review and comment, which prohibits the conversion of those traditional hotel guestrooms/units to any other type of ownership, except as permitted in Section 6(b) above. The deed restriction shall be submitted for review and approval of the City Planner after delivery to the Executive Director of the Coastal Commission for review and comment, prior to issuance of the coastal development permit. The deed restriction shall run with the land, shall be executed and consented to by any existing lessee(s) of the affected property(ies), through recordation of a lease restriction, and shall be binding on the landowner(s) and lessee(s), and on all successors and assigns of the landowner(s) and lessee(s), including without limitation any future lien holders. This deed restriction(s) shall not be removed or changed without approval of an amendment to the underlying coastal development permit and approval of an amendment to the LCP by the Coastal Commission. However minor changes that do not conflict with Sections 6(a) through (l) above may be processed as an amendment to the coastal development permit, unless it is determined by the City Planner, after delivery to the Executive Director of the Coastal Commission for review and comment, that such an amendment is not legally required.
- n) The hotel owner/operator shall be required to submit, prior to issuance of a coastal development permit, for the review and approval of the City Planner and review and comment by the Executive Director of the Coastal Commission, a Declaration of Restrictions or CC&Rs (Covenants, Conditions & Restrictions) which shall include:
- (i) All the specific restrictions listed in Sections 6(b) through (l) above;
 - (ii) Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
 - (iii) A statement that provisions of the CC&Rs (Declaration of Restrictions) that reflect the requirements of Sections 6(b) through

(l) above cannot be changed without approval of an LCP amendment by the Coastal Commission and subsequent coastal development permit amendment. However, minor changes that do not conflict with Sections (b) through (l) above may be processed as an amendment to the coastal development permit, unless it is determined by the City Planner, after delivery to the Executive Director of the Coastal Commission for review and comment, that an amendment is not legally required. If there is a section of the CC&Rs (Declaration of Restrictions) related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the CC&Rs on amendments.

- o) The CC&Rs (Declaration of Restrictions) described above shall be recorded against all individual property titles simultaneously with the recordation of the subdivision map for the Fractional Ownership Hotel.
- p) The provisions of the CC&Rs (Declaration of Restrictions) described above shall not be changed without approval of an amendment to the LCP by the Coastal Commission. However, minor changes that do not conflict with Sections 6(b) through (l) above may be processed as an amendment to the coastal development permit, unless it is determined by the City Planner, after delivery to the Executive Director of the Coastal Commission for review and comment, that an amendment is not legally required.
- q) The Fractional Ownership Hotel owner/operator or any successor-in-interest shall be responsible for ensuring that through no act or omission will it assist, enable, or in any other manner facilitate any other party subject to these restrictions in violating any of these terms and conditions. Each owner of an individual guestroom/unit is severally liable for any and all violations of the terms and conditions imposed by the special conditions of the coastal development permit with respect to the use of that owner's Fractional Interest. Violations of the coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.
- r) All documents related to the marketing and sale of the Fractional Interests, including marketing materials, sales contracts, deeds, CC&Rs and similar documents, shall notify buyers of the following:
 - 1. Each owner of a Fractional Interest is severally liable for any violations

of the terms and conditions of the coastal development permit with respect to the use of that owner's Fractional Interest;

2. The occupancy of a Fractional Ownership Hotel unit by the owner of a Fractional Interest is restricted to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, and when not reserved or in use by the owner, the owner's permitted user or an Exchange User, the owner's time shall be made available for rental by the operator and by the owner's own rental agent to the general public sixty (60) days in advance of an occupancy period pursuant to the terms of the coastal development permit and that the coastal development permit contains additional restrictions on use and occupancy; and
 3. Each owner of a Fractional Interest who does not retain the operator as his or her exclusive rental agent is obligated by the governing documents of the Fractional Ownership Hotel to truthfully report to the operator (and to certify each such report) each effort, if any, he or she has made to rent his or her unit to a member of the public, and the terms and conditions of any such offer, and the terms and conditions of each rental offer which has been accepted by a member of the public.
- s) The initial owner of a Fractional Interest and any successor-in-interest owner of a Fractional Interest, and each future individual unit owner shall obtain, prior to sale of a Fractional Interest, a written acknowledgement from the buyer of that Fractional Interest that occupancy of a unit by the owner is limited to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, that the unit must be available for rental by the operator and/or the buyer's rental agent to the general public at least sixty (60) days in advance of an occupancy period, and that there are further restrictions on use and occupancy in the coastal development permit and the CC&Rs (Declaration of Restrictions).
- t) The operator and any successor-in-interest to the operator shall monitor and record the occupancy and use of the Fractional Ownership Hotel by the general public and the owners of individual Fractional Interests throughout each year. The monitoring and record keeping shall include specific accounting of all owner usage of each individual guestroom/unit in the Fractional Ownership Hotel. The records shall be sufficient to demonstrate compliance with the restrictions set forth in Sections 6(a) through (l) above. The owner/operator shall also maintain documentation of rates paid for hotel occupancy and of marketing efforts by the operator, and by the rental agents of owners other than the operator. All such records shall be maintained for ten years and shall be made available to the City Planner and the Executive Director of the Coastal Commission upon request and to

any auditor required by Section 6(u) below. Within 30 days of commencing hotel operations, the operator of the Fractional Ownership Hotel shall submit notice to the City Planner and to the Executive Director of the Coastal Commission of commencement of hotel operations.

- u) Within 120 days of the end of the first calendar year of hotel operations, the Fractional Ownership Hotel operator shall retain an independent auditing company, approved by the City Planner, to perform an audit to evaluate compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the hotel owner/operator. The hotel owner/operator shall instruct the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the City Planner, for review and approval, and shall be available to the Executive Director of the Coastal Commission upon request, within six months after the conclusion of the first year of hotel operations. Within 120 days of the end of each succeeding calendar year, the hotel operator shall submit a report to the City Planner and the Executive Director of the Coastal Commission, regarding compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the Fractional Ownership Hotel. The audit required after one year of operations and all subsequent reports shall evaluate compliance by the Fractional Ownership Hotel operator and owners of individual Fractional Interests during the prior one-year period. After the initial five calendar years, the one-year reporting period may be extended to two years upon written approval of the City Planner. The City Planner may grant such approval if each of the previous reports revealed compliance with all restrictions imposed above. The City Planner or the Executive Director of the Coastal Commission may, by written notice to the operator, require a third-party audit regarding the subject matter of the reports required in this section for the prior three (3) or fewer calendar years if he or she reasonably believes that the foregoing submitted reports are materially inaccurate. The governing documents for the Fractional Ownership Hotel shall require the operator and each owner of a Fractional Interest to fully cooperate with and to promptly produce any existing documents and records which the auditor may reasonably request. The expense of any such audit shall be payable by the owner's association for the Fractional Ownership Hotel.
- v) The Fractional Ownership Hotel owner/operator and any successor-in-interest, shall be responsible for complying with the terms and conditions stated above at all times in perpetuity and shall be liable for violating these terms and conditions. If the Fractional Ownership Hotel owner and the

Fractional Ownership operator at any point become separate entities, the Fractional Ownership Hotel owner and the Fractional Ownership Hotel operator shall each be severally responsible for complying with the requirements identified above. If the Fractional Ownership Hotel owner and Fractional Ownership Hotel operator become separate entities, they shall be severally liable for violations of the terms and conditions (restrictions) identified above.

- w) Prior to the issuance of a coastal development permit for a Fractional Ownership Hotel, an applicant shall submit a plan for approval specifying how the requirements outlined in Article 4(a) Section 450 “T” of the Zoning Ordinance will be implemented. The plan must include, at a minimum, the form of the sale, deed and CC&Rs (Declaration of Restrictions) that will be used to satisfy the requirements and the form of the rental program agreement that will be offered to the Fractional Interest owners by the Fractional Ownership Hotel operator. The plan must demonstrate that the applicant will establish mechanisms that provide the Fractional Ownership Hotel operator and any successor-in-interest Fractional Ownership Hotel operator adequate legal authority to implement the requirements of Article 4(a) Section 450 “T” of the Zoning Ordinance above. An acceptable plan meeting these requirements shall be incorporated into the special conditions of approval of any coastal development permit for a Fractional Ownership Hotel. Any proposed changes to the approved plan and subsequent documents pertaining to compliance with and enforcement of the terms and conditions required by Article 4(a) Section 450 “T” of the Zoning Ordinance and this section including deed restrictions and CC&Rs (Declaration of Restrictions) shall not occur without an amendment to the coastal development permit, unless it is determined by the City Planner, after delivery to the Executive Director of the Coastal Commission for review and comment, that an amendment is not legally required.

7. Protection of Existing Overnight Visitor Accommodations - Any overnight visitor accommodations for which a Certificate of Occupancy has been issued prior to or on the effective date of adoption of this section shall not be converted to a Limited Use Overnight Visitor Accommodation. Demolition of existing lower cost overnight visitor accommodations shall be discouraged. If demolition of existing lower cost units is authorized, mitigation shall be provided as specified below:

- a) Monitoring of Lower Cost Units in the Coastal Zone

The City shall monitor a LUP requirement to ensure that a minimum of 400 lower cost units shall be maintained in the Coastal Zone by reporting the status of the current number of lower cost units within the Coastal

Zone within all staff reports containing visitor serving accommodations. This information shall be forwarded to the Coastal Commission prior to the issuance of the Coastal Permit.

b) Assistance to Existing Lower Cost units in the Coastal Zone

At such time as the inventory of lower cost units would be at 405, the City would pursue outreach to the existing property owners in an attempt to assure their short- and long-term survival. Resources that can be brought to bear to assist them could include the City's Façade Enhancement Program, in which matching funds can be made available for painting, awnings, signage and landscaping.

c) Restrictions to Protect Lower Cost Units in the Coastal Zone

Any project that is required to provide lower cost units shall be required to record a deed restriction against the property that requires the protection of the lower cost units, such that the demolition and re-build of lower cost units would not result in the total number of lower cost units to be less than a total of 400 units in the Coastal Zone.

d) When referring to overnight accommodations, lower cost shall be defined by a certain percentage of the statewide average room rate as calculated by the Smith Travel Research website (www.visitcalifornia.com). A suitable methodology would base the percentage on market conditions in San Diego County for the months of July and August and include the average cost of motels/hotels within 5 miles of the coast that charge less than the Statewide average or 82%. High cost would be room rates that are 20% higher than the Statewide average, and moderate cost room rates would be between high and low cost. The range of affordability of new and/or replacement hotel/motel development shall be determined as part of the coastal development permit process and monitored as part of the City's inventory of visitor overnight accommodations.

HH. Winery, Craft. A small-scale winemaking facility that includes designated floor area (comprising no less than 20 percent and no more than 40 percent of the total floor area) for product sampling and/or retail sales of wine conforming to state requirements. Retail sales of craft winery merchandise including wine glasses, wine bottles, decanters, corkscrews, home décor, apparel, signs, books, and other wine paraphernalia are also permitted. A craft winery shall produce a minimum of 300 cases annually and not exceed a maximum output of 10,000 standard cases annually (with a standard case of wine containing twelve 750 ml bottles or nine liters of wine). Facilities housing a craft winery shall not exceed 15,000 square feet of floor area. The category of a craft winery (based upon floor area and scale of operation) shall

determine the appropriate review and approval process, as specified below. Such facilities shall be subject to the following limitations:

1. Other than business name and/or logo, such uses shall not display exterior signage (including advertising directed to the exterior from interior spaces) that promotes the availability of alcoholic beverages.
2. There shall be no amusement or video machines maintained on the premises.
3. There shall be no "happy hour" or regular periods of reduced-priced alcoholic beverages.
4. Amplified live entertainment shall require issuance of an Administrative Conditional Use Permit (ACUP).
5. Ancillary food service involving outdoor equipment (e.g., food trucks) shall require issuance of an Outdoor Facilities Permit.
6. Delivery/distribution activities involving Class 4 or higher vehicles shall not occur between the hours of 10:00 p.m. and 7:00 a.m.
7. Hours of operations shall not extend beyond 10:00 p.m., unless extended hours of operation are approved through a Conditional Use Permit (CUP).

Craft wineries shall be regulated under the following tiered review and approval process:

1. Tier 1: Produces at least 300 and no more than 7,000 standard cases annually and does not exceed 10,000 square feet of floor area. Tier 1 facilities are subject to approval of an Administrative Conditional Use Permit (ACUP) when not abutting residential zoning districts, schools, and/or churches. Tier 1 facilities abutting residential zoning districts, schools, and/or churches are subject to a Conditional Use Permit (CUP).
2. Tier 2: Produces at least 900 and no more than 10,000 standard cases annually and does not exceed 15,000 square feet of floor area. Tier 2 facilities shall be subject to approval of a Conditional Use Permit (CUP).

424 Accessory Use Classifications

- A. Accessory Uses and Structures. Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes accessory dwelling units ("second units") and home occupations.

425 Temporary Use Classifications

- A. Agricultural Specialty Sales, Seasonal. Retail sale of seasonal specialty items for a period not to exceed 45 days (e.g. Christmas Tree Sales, Pumpkin Sales).
- B. Yard/Garage Sales. A sales event advertised by any means at a residential location where members of the public may purchase identifiable or tangible items of personal property; provided however, it shall not mean any event which constitutes a sales activity, wholesale or retail, by any business which has a current business license issued by the City. Items sold shall be limited to personal property owned by the occupant of the property and/or surrounding neighbors.