CALIFORNIA
NATIONAL CITY
1887
INCORPORATED

A.R.O.W.

ACTIVATE THE RIGHT-OF-WAY PROGRAM

Provided by:

Engineering &
Housing and Economic Development
Department

PACKET II

TOGETHER WE CAN!

A.R.O.W.

ACTIVATE THE RIGHT OF WAY

When everyone takes part everyone can take **pride.**

AROW Stands for Activate the Right-of-Way. It's purpose is to beautify, activate, and promote our city by working with the business community to enhance portions of the public right-of-way.

OUR MISSION Is to create spaces that cultivate and spur economic growth and income to local merchants by encouraging pedestrian traffic.

THE PROGRAM Focuses on two areas of activation: outdoor displays and outdoor dining areas in the City's right-of-way and public spaces.

TOGETHER WE CAN!

We're making National City Cleaner, Healthier, & Safer.

PROGRAM DETAILS

This program is intended for community organizations or local small businesses interested in activating public spaces. AROW participants can enhance city sidewalks and selected city sites with outdoor displays and outdoor dining areas. The purpose of the program is to create spaces that encourage connections between the community and local merchants through place based experiences.

Eligible participants of the AROW program include businesses fronting on the public right-of-way and located on the first floor of a commercial property and local community-based organizations operating as non-profit.

What is placemaking?
Placemaking inspires people to collectively reimagine and reinvent public spaces as the heart of the community.

How will placemaking benefit my business?
Quality places retain and attract skilled and talented people. Talented people like places with natural, community, social, leisure, creative, and cultural activities for themselves and their families!

What is considered outdoor dining?
Any temporary dining area that is not considered to be an "enclosed" space.

What is considered outdoor displays?
Displays must be customary with that type of business and consistent with or comparable to the types of uses of that business.

What is the purpose of an outdoor display?
Outdoor display area should be used as a way to attract customer's into your business, not to sell the item(s) on display.

Is the sale of alcohol permitted through the AROW program?
No, if you are interested in selling or serving alcohol you must first obtain an ABC license and an official outdoor cafe permit from the City of National City.

Will I need additional insurance?
Yes, and this will be determined on a case by case basis.

Additional Information
Enhancements are permitted in the public right-of-way only during business hours. Storage of these items shall be within the building during non-business hours.

APPLICATION PROCESS

Our application process is quite simple and the City is here to help you at any stage of your application process. Please identify the following steps, so we may review your request and guide you along our AROW process for approval, so you may initiate your activation efforts.

Step 1 Identify a space to activate.

1. If you are a **Community Organization** email Mgamwell@NationalCityCa.gov for a list of public spaces your community organization can activate through the program.
2. If you are a **Local Small Business** with a storefront facing the right-of-way email Mgamwell@NationalCityCa.gov for instructions on how to obtain information on the property line of your business from our City records.

Step 2 Plan your activation.

1. Choose between an **outdoor display** or **outdoor dining area** for your activation.
2. Review the program guidelines for activation, including visibility, clear paths of travel, and accessibility requirement for your activation.
3. Provide two copies of scale drawings that show your property lines, all existing and proposed obstructions, and the location of your activation. Submit to the Housing and Economic Development Department (HEDD) for review.
4. Submit your application with proof of insurance for final approval by mail to:
   National City Housing and Economic Development, 140 E. 12th Street, Suite B, National City, CA, 91950.

Step 3 Activate your space.

1. Once you are ready to activate your space you will pick up your program sticker to place in your window or in your business as proof of participation in the program.
2. Activations must be renewed annually.

ACTIVATE THE RIGHT OF WAY

AROW APPLICATION

Name of Business/Organization:_____

Business Address:_____

Applicant's Mailing address (**if different than above**):_____

Contact Person & Title:_____

Telephone Number:_____ Mobile Number:_____

Email: _____

Property Owner's Name:_____

Property Owner's Phone Number:_____

Business Information. The property owner/tenant must be operating legally, properly registered, licensed with the City of National City and owe no outstanding property taxes, fees, judgments, or liens to any government entity. If any code violations exist on the property, the owner/tenant must resolve any violations before applying for the AROW program.

Type of Business:_____

Check the box for which this application is submitted.

☐ Outdoor Display

☐ Outdoor Seating Area

☐ Community Organization

PLEASE ATTACH TWO COPIES OF SCALE DRAWINGS THAT SHOW PROPERTY LINES, ALL EXISTING AND PROPOSED OBSTRUCTIONS AND LOCATION OF PROPOSED ENHANCEMENT IN THE RIGHT OF WAY: SEE EXHIBIT "B" ATTACHED.

Signature: _____ Print Name: _____ Date: _____

Mail your application package to:

City of National City
Housing and Economic Development
140 E. 12th Street, Suite B
National City, CA 91950

The City of National City is not responsible for items lost or destroyed in the mail/transit.

Conformation

If you do not receive confirmation of this application, please contact the HEDD at (619) 336-4216 or mgamwell@nationalcityca.gov

SECTION I - GENERAL REQUIREMENTS

1. The City's rights with respect to the public right-of-way shall remain and continue in full force and effect and shall in no way be affected by the City's grant of permission to place the listed enhancements in the public right-of-way.

2. As a condition of participation in the Program, participating Business Owners and Community Organizations hereby agree to defend, indemnify, and hold harmless the City and its officers, employees, agents, and volunteers from and against any and all claims, demands, costs, losses, liability, or damages to property, injuries to or death of person or persons, and for all suits, actions, proceedings, attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever arising from, arising out of, or related to, the Business Owner's or Community Organization's use of public property; provided, however, that this indemnification and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its agents, officers, employees, or volunteers.

3. The Business Owner or Community Organization shall provide evidence of a policy of liability insurance in the nature and amount satisfactory to the City Risk Manager and the City Engineer naming the City of National City, its officers, officials, agents, employees, and volunteers, as well as the property owner, and the property owners' agents, officers, and employees as additional insureds, and a separate additional insured endorsement shall be provided. The City shall be notified in writing by the insurer a minimum of ten (10) business days prior to any cancellation of policy. **Cancellation of a Business Owner / Community Organization's insurance policy immediately voids participation in the Program.** A Business Owner / Community Organization shall show, upon request by any City representative that the Business Owner / Community Organization has insurance as required by the Program. The City may periodically request copies of Business Owners / Community Organization's insurance policies or insurance certificates through the duration of the Program.

4. The Business Owner or Community Organization shall remove or relocate, at Business Owner's or Community Organization's own expense, any Enhancement within one week after notice by the City (through a City representative or by letter) when an immediate response is not possible. If the Business Owner or Community Organization fails to remove or relocate the Enhancement in the required time and manner, or if deemed necessary by the City, the City may cause such work to be done and charge the Business Owner or Community Organization for the cost of the work, at the sole discretion of the City, without further notice to the Business Owner or Community Organization. The City may also order that any Enhancement be immediately removed or relocated to protect the life, health, and safety of the public.

5. The Business Owner or Community Organization Representative shall maintain the public right-of-way in a safe and sanitary condition at the sole cost, risk, and responsibility of the Business Owner / Community Organization.

6. Enhancements shall not be placed in the public right-of-way during any repair or scheduled maintenance of a public utility within one hundred feet of the property lines of the participating business.

7. During public events, such as street fairs and parades, Enhancements shall not be placed in the public right-of-way without written approval, either general or specific, from the City.

GENERAL REQUIREMENTS

Visibility Areas

8. Enhancements shall be placed so as not to block or obstruct vehicular visibility areas, including but not limited to the twenty-five feet (25'-0") visibility triangle required at the intersection of any two streets (Illustration I-A) and the ten feet (10'-0") visibility area required at a driveway or alley intersecting a street

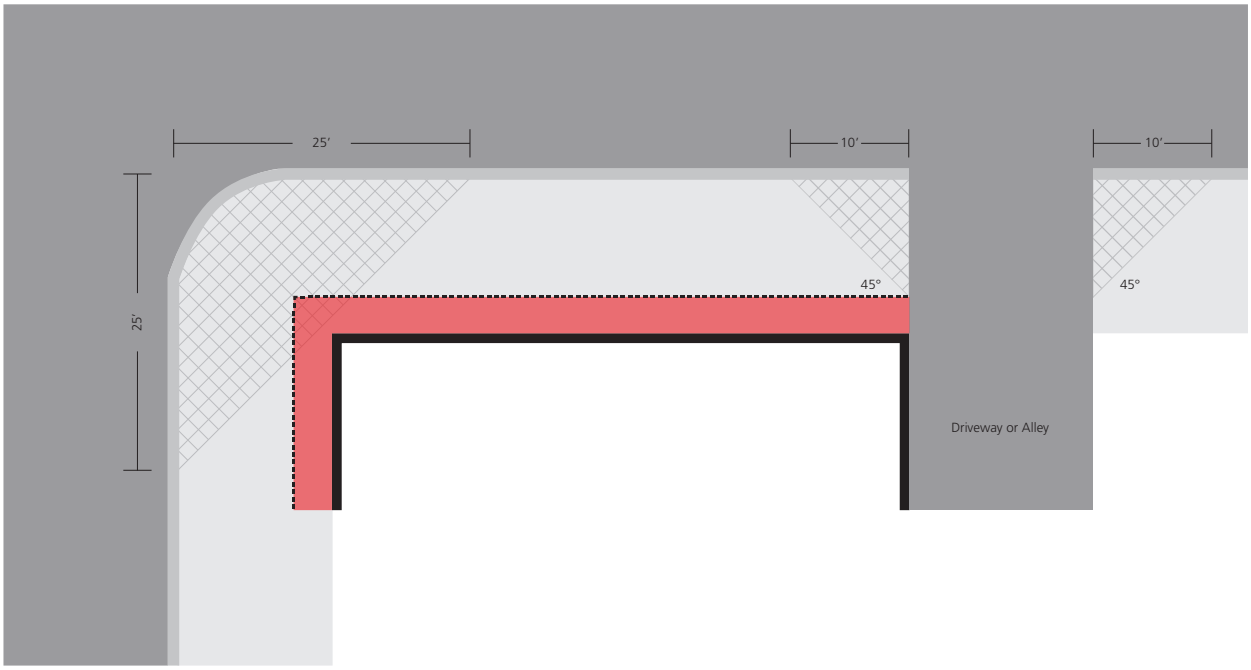

Illustration I-A: Visibility Areas
This illustration exhibits the specific requirements of the enhancement standards and is intended only as an aid.

Visibility Area

Vehicular Visibility Area

Based on 10' Setback

Clear Path of Travel

9. Enhancements shall be placed so as to maintain a clear path of travel that has (a) a minimum width of four feet (4'-0"), (b) no more than thirty-degree changes of direction for travel along the public right-of-way itself and (c) no travel onto private property except for access to and egress from a specific business, area, or location. (Illustration I-B)

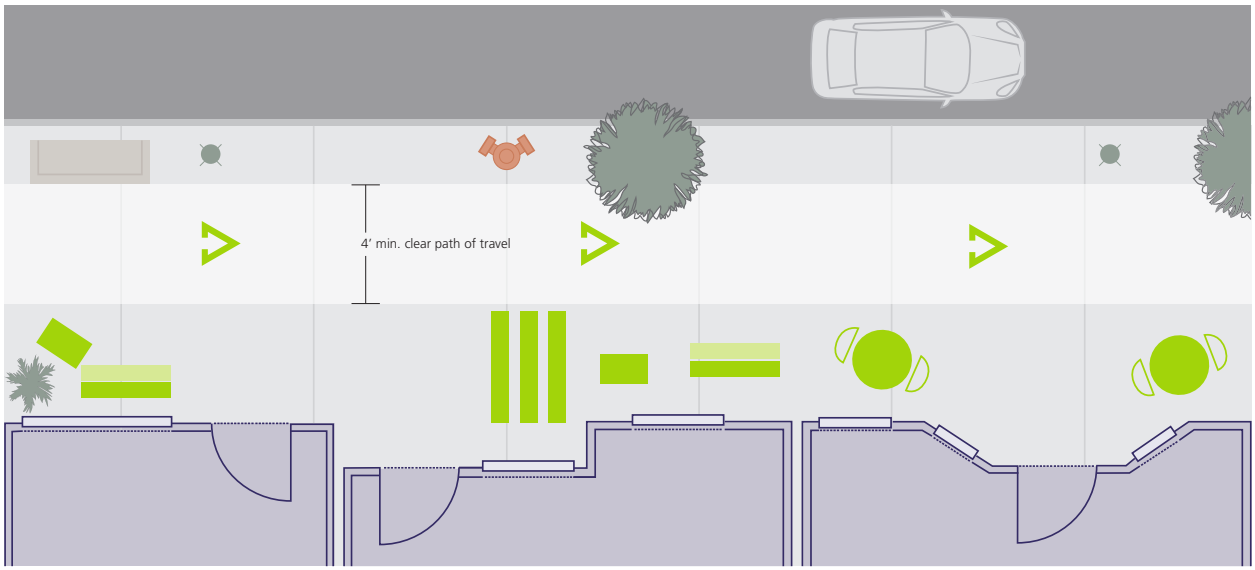

Illustration I-B: Clear Path of Travel This illustration exhibits the specific requirements of the enhancement standards and is intended only as an aid.

Based on 10' Setback

Display Rack
Display Bin
Display Shelf
Clear Path of Travel

Accessibility

10. Enhancements shall be placed no closer than two feet (2'-0") to the curb.

11. Enhancements shall be placed so as to not block or obstruct access to building entrances and exits (such as those areas required adjacent to a door for disabled access) and street furniture, including but not limited to, bus benches or shelters and public utility boxes and poles. (Illustration I-C)
    a. Provide access per accessibility codes where crosshatching is shown.
    b. This diagram is neither intended to illustrate all the applicable codes of the Disabled Accessibility Standards of California Building Standards Code nor those of the Americans with Disabilities Act.

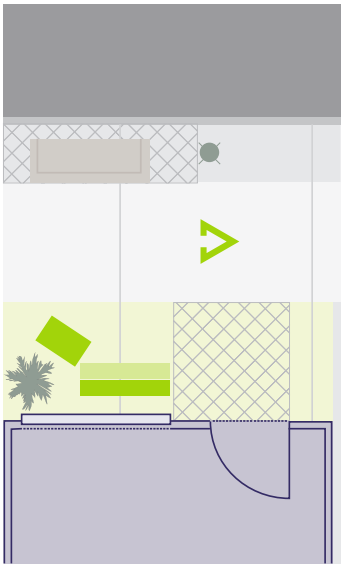

Illustration I-C: Accessibility This illustration exhibits the specific requirements of the enhancement standards and is intended only as an aid.

Based on 10' Setback

Display Rack
Display Shelf
Display Bin
Clear Path of Travel
AROW Zone
Accessibility Area

Window Transparency

12. Enhancements shall be placed in such a way so as not to substantially obstruct a business or restaurant's transparency (i.e. the views into a store or restaurant's interior and window displays). The business' transparency shall meet or exceed that required by the City Land Use Code for the business' zoning and occupancy type. (Illustration I-D).

13. The Enhancements (such as display items or outside dining furniture) shall be of such size and placement that the view into the store, shop, or restaurant still meets the zoning transparency requirements (N.C.M.C. Section 18.24.070).

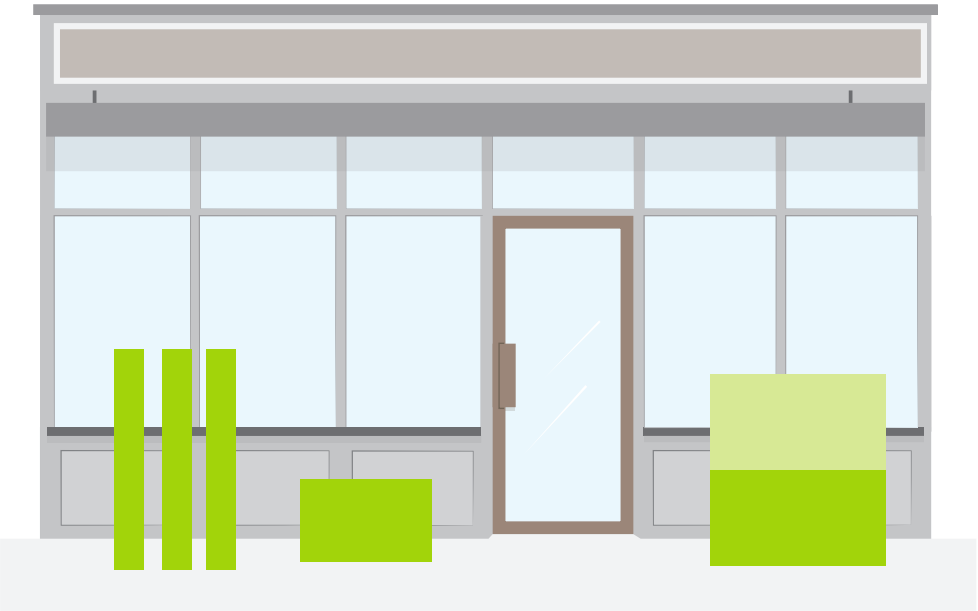

Illustration I-D: Window Transparency This illustration exhibits the specific requirements of the enhancement standards and is intended only as an aid.

Based on 18' Bldg Height

Display Rack

Display Shelf

Display Bin

Clearances from Public Water Facilities & Sewer Clean-Outs

14. Enhancements shall be placed a minimum of five feet (5'-0") from any public water facilities including fire hydrants and meter boxes or assemblies. (Illustration I-E).

15. Enhancements shall be placed a minimum of two feet (2'-0") from any sewer lateral clean-out in the public right-of-way. (Illustration I-E).

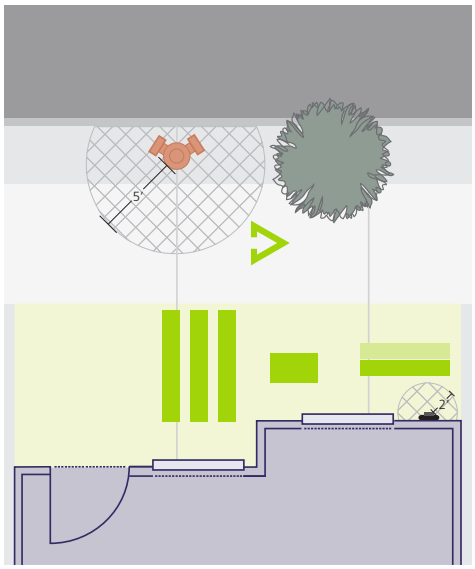

Illustration I-E: Public Water & Sewer Clean-Out Clearances This illustration exhibits the specific requirements of the enhancement standards and is intended only as an aid.

Based on 10' Setback

Display Rack
Display Shelf
Display Bin
Clear Path of Travel
AROW Zone
Clearance Space
Sewer Clean-Out
Fire Hydrant

Additional Requirements

16. Enhancements (except flowerpots, flower planter boxes, and statuary) are permitted in the public right-of-way only during business hours. Storage of these items shall be within the building during non-business hours.

17. Enhancements shall not be attached to public utility boxes, poles, or other street furniture.

18. Business services (including those of cashiers or salespersons) and demonstrations shall not be provided in the public right-of-way. Security personnel managing an outdoor display area, and waiters or waitresses for Outdoor Dining Areas are permitted in the public right-of-way

19. The public right-of-way shall not be painted, resurfaced, or raised.

NOTE:

1. **The scope of this Program does not include the installation of awnings, railings, and other permanent structures (except flower pots, flower boxes, and statuary) in the public right-of-way. If you are interested in more permanent facade improvement, ask us about our Signage and Facade Improvement Program.**

2. **The scope of this Program does not include any work performed or Enhancements, whether temporary or permanent in nature, on private property. City ordinances may restrict or prohibit the use of Enhancements in the private property immediately adjacent to the public right-of-way that are permitted in the public right-of-way under the scope of this Program.**

3. **It is the responsibility of the Business owner to determine the location of the property line.**

SECTION II - OUTDOOR DISPLAY STANDARDS

Eligibility: Only those businesses fronting on the public right-of-way and located on the first floor may participate in this Program. Community Organizations may adopt a place in the public right-of-way that has been identified by the City as a desired location for enhancement. Enhancements may be placed only in the public right-of-way directly in front of the Business's storefront or in one of the city's identified areas of enhancement. Enhancements that do not comply with the General Requirements or the standards and conditions of this Program are not allowed.

Purpose: Outdoor display areas is to attract customers into retail, repair, or service businesses, not to sell the item(s) on display. Price tags or advertisements are not permitted.

Allowable Display Areas

1. The permitted display items shall be placed in the public right-of-way for a distance no more than four feet (4'- 0") from the property line. (Note: the street wall of the building may or may not be located at the property line. It is the responsibility of the Owner to determine the location of the property line.) The actual allowable depth of the exhibit area from property line towards the curb may be less due to other restrictions. (See Section I: General Requirements). (Illustration II-A).

2. The display areas shall be limited to the length of the business' storefront. (Illustration II-A).

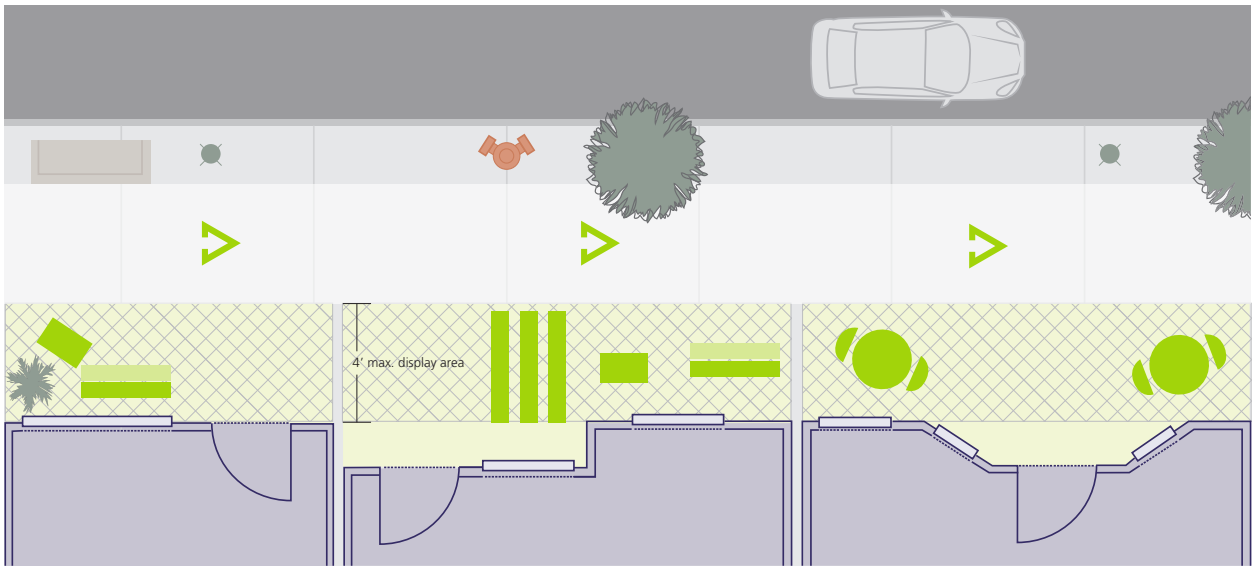

Illustration II-A: Allowable Display Areas This illustration exhibits the specific requirements of the enhancement standards and is intended only as an aid.

Based on 10' Setback

Display Rack
Display Shelf
Display Bin
Clear Path of Travel
AROW Zone
Display Area

Permissible Merchandise

The following items may be displayed in the public right-of-way, provided the Business Owner or Community Organization abides with this Section II of the Program regarding allowable display areas and items, display requirements, and maximum allowed quantities. Permitted Displays must be in Commercial, Mixed-Use, and Industrial Zones and be customary to that type of business. The merchandise shall be free of graffiti and constitute no hazard to pedestrian traffic. The following items may be displayed in commercial, mixed-use, and industrial zones.

1. Furniture: patio furniture and wooden and metal furniture (excluding mattresses and sofas).
2. Books and magazines.
3. Produce, baked goods, and food in glass containers.
4. Cut or live flowers and plants.
5. Hand crafted products and goods.
6. Art work, including paintings, photography, sculpture, frames, and pottery, displayed by retail, supply, or service businesses.
7. Bicycles.
8. Musical instruments.
9. Leather goods.
10. Rugs.
11. Pet accessories.
12. Other merchandise similar in character, type, or nature to the merchandise listed above with written approval from the City.
13. Clothing.

Merchandise Not Permitted

Any merchandise not falling within this Section II, or within Section 18.30.150 of the National City Municipal Code shall not be displayed outdoors, including, but not limited to, the following:

1. Alcoholic beverages.
2. Tobacco, cigarettes, and smoking accessories.
3. Upholstered items with a cumulative height, width and depth of nine feet or more.
4. Shoes, except those displayed on mannequins or props.
5. Clothing hung on racks.
6. Vending and dispensing equipment.
7. Appliances.
8. Canned or prepackaged foods.
9. Adult-oriented material.
10. Mattresses.
11. Major appliances.
12. Compact discs, videotapes, cassette tapes, digital video discs, and similar items.
13. Computers, business machines, and home electronics.
14. Cameras and photographic equipment.
15. Live animals.
16. Pet food.
17. Pawned items.
18. Weapons, including, but not limited to, knives, fencing swords, and antique pistols.
19. Home cleaning products.
20. Personal care items.
21. Other merchandise similar in character, type, or nature to that listed above.

Maximum Quantities

Businesses may display the types of merchandise from no more than two of the following five categories in this Section II. Businesses may also display outdoor dining furniture as follows below:

1. Outdoor dining furniture is limited to one item for every five (5) linear feet of storefront. (Example: a store with a gross storefront length of twenty-five feet (25'-0") may display up to a maximum of five (5) items.)

2. Book and magazine racks, limited to one (1) rack per every storefront length of twenty-five feet (25'-0") or portion thereof.

3. Hand-crafted products and goods, artwork, and/or pottery, limited to two (2) items for every five (5) linear feet of storefront. (Example: a store with twenty-five feet (25'-0") of storefront may display up to a maximum of ten (10) items.)

4. Food products, limited to one (1) linear foot of display space for every five (5) linear feet of storefront. (Example: a store with twenty-five feet (25'-0") of storefront may display food products along a maximum of five linear feet.)

5. Dress apparel [clothing, accessories, and shoes (as allowed)], limited to six (6) pieces, (Note: if seven to twelve (7-12) articles of apparel, whether clothing, accessories, or shoes, are displayed, then no other type or quantity of merchandise may be displayed.) (Example: a store with twenty-five feet (25'-0") of storefront may display six (6) pieces of apparel and a rack of books or display twelve (12) pieces of apparel.)

Display Requirements

1. All items publicly displayed shall: be in good condition; not require repair; and not be wrapped in plastic or other wrapping materials.

2. Items shall be displayed appropriately (preferably on three-dimensional props) that coordinate with the store facade. Cardboard boxes and folding tables are not permitted as display racks.

3. Clothing shall be hung only on mannequins or props, except that clothing may be displayed on hangers on the door(s) of the business.

4. Books and magazines shall be displayed on racks three to four feet (3'-0" to 4'-0") in height. Books shall be displayed to allow the title and author of each book to be seen. Each rack shall be no more than six feet (6'-0") in length.

5. All items and displays shall be safe and stable with no risk of overturning due to wind or contact. Props and items of display shall not project into the clear path of travel; corners shall be rounded. Businesses shall remove displays when weather conditions create a potentially hazardous condition.

6. All items (such as racks, mannequins, props, furniture and other display items) must extend to within two (2) inches of the ground and have a two (2) inch wide stripe at all bottom edges or in some other manner be physically and visually detectable in an easy manner by the visually impaired.

SECTION III - OUTDOOR DINING AREA STANDARDS

Eligibility: Only those restaurants fronting on the public right-of-way and located on the first floor may participate in this Program. Community Organizations may adopt a place in the public right-of-way that has been identified by the City as a desired location for Enhancements. Enhancements that do not comply with the General Requirements or the standards and conditions of this Program are not allowed.

Purpose: Outdoor dining areas is to attract customers into restaurants and cafes.

1. Only those businesses licensed to serve food and/or beverages are permitted to have an Outdoor Dining Area that complies with the standards of the Program and N.C.M.C. Section 18.30.200. Authorized Community Organizations who have adopted a place in the public right-of-way that the City has identified as a desired location for Enhancement may also have an Outdoor Dining Area that complies with the standards of the Program and N.C.M.C Section 18.30.200.

2. **Alcohol cannot be sold or consumed in Outdoor Dining Areas permitted under the Program.**

3. The hours of operation of the Outdoor Dining Area shall not exceed those of the primary business' use or City authorization for the Community Organization.

4. Tables and chairs shall be metal, wood, or other approved material, and must be in good condition and not require repair. Umbrellas must be in good condition, be fire-treated, and not require repair.

Allowable Dining Areas

5. An Outdoor Dining Area may include the use of all the area in the public right-of-way adjacent to the business or in the adopted area, except that area required for the clear path of travel or clear area adjacent to street furniture, such as bus benches utility boxes or fire hydrants. (Illustration III-A).

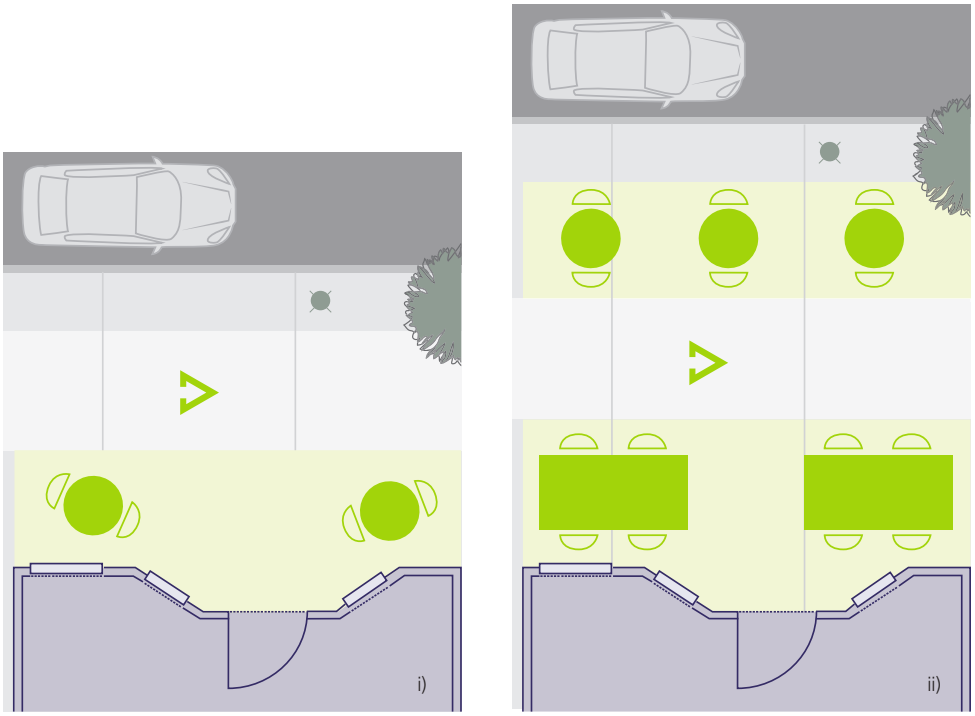

Illustration III-A: Allowable Dining Areas
This illustration exhibits the specific requirements of the enhancement standards and is intended only as an aid.

i) Based on 10' Setback
ii) Based on 15' Setback

Clear Path of Travel

AROW Zone

Permanent Lighting

6. Permanent lighting complying with City and accessibility standards and installed with electrical permits may be provided for the public right-of-way. The lighting shall be attached to the building and that area of the public right-of-way within two feet (2'-0") of the curb. Exception: the area within two feet (2'-0") of the curb may be used if the parking is head-on. (Illustration III-B). (See also Illustrations I-A through I-E.)

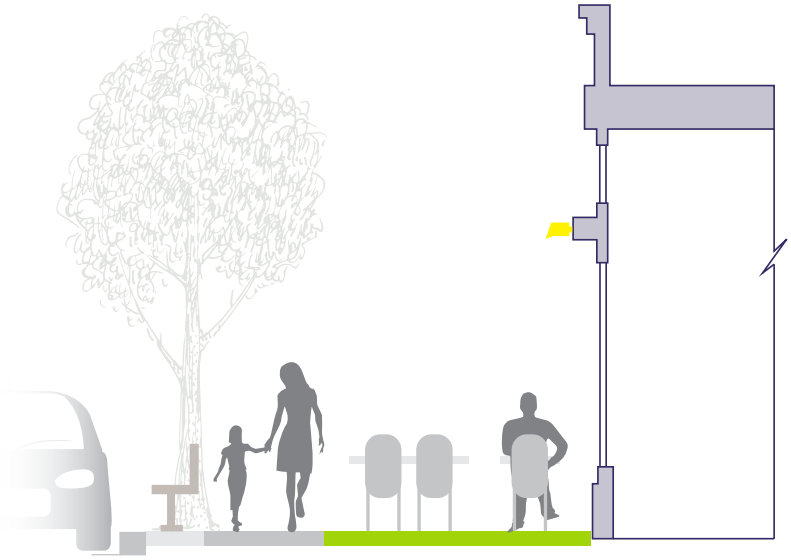

Illustration III-B: Permanent Lighting This illustration exhibits the specific requirements of the enhancement standards and is intended only as an aid.

Based on 15' Setback

Clear Path of Travel

AROW Zone

Lighting

PERMIT CONDITIONS

The person(s), business, company, or corporation applying for participation in the Program shall be hereby named as the "Applicant."

1. This application is subject to written approval by both the Department of Housing and Economic Development and Engineering.
2. Approval allows for temporary use of the public right-of-way as set forth in the Program.
3. Displays without approval of an application are not permitted.
4. The Business Owner / Community Organization shall provide evidence of a policy of liability insurance in the nature and amount satisfactory to the City Risk Manager and the City Engineer naming the City of National City, its officers, officials, agents, employees, and volunteers, as well as the property owner, and the property owners' agents, officers, and employees as additional insureds, and a separate additional insured endorsement shall be provided. The Business Owner / Community Organization shall maintain the policy continuously. The City of National City shall be given ten-day notice prior to the cancellation of the policy. Cancellation of a Business Owner or Community Organization's insurance policy immediately voids participation in the Program. A Business Owner / Community Organization needs to show upon request by any City representative that the Business Owner / Community Organization has insurance as required by the Program. The City may periodically request copies of Business Owner / Community Organization's insurance policies or insurance certificates through the duration of the Program.
5. The Business Owner / Community Organization shall provide two copies of a scale drawing of the proposed Enhancement. The drawing shall be no smaller than 8.5" x11" nor larger than 11" x 17." The drawing shall indicate the curb and property lines, all existing and proposed obstructions (traffic signs, traffic lights, street lights, bus benches, fire hydrants, etc.), and location of proposed exhibit areas, outdoor dining area furniture, planter boxes, and statuary. Applicants for any business or Community Organization located at a corner property or on a property that has a depth that runs from street to street shall provide information for both street frontages. Note: Business Owner / Community Organization shall submit changes to plans for approval by the Departments of Housing and Economic Development and Engineering.
6. The Business Owner / Community Organization shall provide two copies of a photograph or photographs of the area of the proposed Enhancement. The photograph(s) shall include the entire area of the Enhancement as well as the adjacent property to each side. Applicants for any business or Community Organization located at a corner property or a street-to-street property shall provide photographs for both street frontages.
7. The Business Owner / Community Organization shall attend a free training demonstration provided by the City prior to displaying an outdoor display or opening an Outdoor Dining Area.
8. The applicant shall provide the curb-to-property line card obtained from the City Clerk.
9. This application is not transferable.

DEFINITIONS

Community Organization: A community-based organization operating as a civil society non-profit organization. A Community Organization may also serve a function of organizing within communities defined by geographical location, shared work space, or shared experience or concerns.

Clear Area: The area adjacent to street furniture as required for a clear path of travel or for maintenance or access as referenced in the Section III "Outdoor Dining Area Standards."

Clear Path of Travel: A route for use by pedestrian and wheelchair users that provides free and unobstructed access to and egress from a building, area, street furniture, temporary installation or location, also as referenced in Section III "Outdoor Dining Area Standards."

Display Item: A product being displayed for public view. See also "Outdoor Display Item."
Display Type: A category of items (such as clothing, artwork, craftwork, books, food, or furniture).

Encroachment: A facility or other physical object placed within, under, over, or upon the public right-of-way or public property. The term shall also include the line-of-sight aerial passage of a beam of light or laser through the airspace over such real property. It shall not include any wireless, microwave or radio transmission over such real property. See N.C.M.C. Section 13.12.020(G).

Enhancements: Any outdoor display items, outdoor dining furniture (including chairs, tables, umbrellas, planter pots or boxes, sculptural works, and temporary railings), located in the public right-of-way.

Outdoor Display Item: The particular product being displayed for public view and located outside a building in the public right-of-way. See N.C.M.C. Section 18.30.150 for permissible display items. Display items must be customary with that type of business and consistent with or comparable to the types of uses, and must comply with all other aspects of N.C.M.C. Section 18.30.150.

Obstruction: Temporary or permanent objects that might restrict pedestrian travel and access within the public right-of-way. Obstructions include but are not limited to: fire hydrants, lamp posts, trees, tree wells, parking meters, street furniture, trash receptacles, kiosks, utility pedestals, newspaper racks, free-standing signs, articles of display, outdoor dining area furniture, bus benches, and bus shelters.

Outdoor Dining Area: Any temporary dining area in the public right-of-way, or on private property, that is not considered to be an "enclosed" space, as referenced in the City's Land Use Code (See N.C.M.C. Chapter 18.10), nor permitted by the City as a sidewalk café.

Path of Travel: A passageway for pedestrians and/or wheelchair users that provides access to, and egress from, a building, area, or location.

Public Right-of-Way: Any street, avenue, boulevard, highway, bikeway, sidewalk or alley or similar place that is owned or controlled by a government entity. For the purposes of this Program, the public right-of-way where Streetscape Enhancements may be located shall include only that portion between the curb and the property line or, where there is no curb, between the outer edge of the roadway and the property line. See N.C.M.C. Section 12.04.540

Public Space: Any real property, or structures thereon, which are owned or controlled by a governmental entity, other than the public rights of way. See N.C.M.C. Section 12.04.560.

Streetscape Enhancements: see "Enhancements."

Street Furniture: Items such as utility boxes or poles, bus benches or shelters, news racks, mailboxes, street trees, lamp poles, or parking meters.

ACTIVATE THE RIGHT-OF-WAY AGREEMENT
"AROW" PROGRAM PERMIT

The City of National City, a municipal corporation, (the "CITY") hereby grants this AROW Permit to the undersigned, [insert name here] (hereinafter referred to as [insert either "OWNER" for business owner or "ORGANIZATION" for Community Organization;] in consistent with the terms and conditions set forth in Chapter 13.12 of the National City Municipal Code.

The OWNER/ORGANIZATION is the owner of that certain real property described in the attached **Exhibit "A"**; or is an owner of personal property that is proposed to be placed in the PROW or other public property of the City of National City, County of San Diego, State of California. The OWNER/ORGANIZATION, in consideration of this PERMIT from the CITY to place and maintain an Outdoor Dining Area or outdoor display as defined in the AROW Program (also referred to hereafter and in the Program as an "Encroachment") within or upon a CITY easement, property, or right-of-way for the use and benefit of OWNER'S/ORGANIZATIONS' property and adjacent lands, now covenants and agrees as follows:

The site of placement and any description of OWNER'S/ORGANIZATIONS' Encroachment is described in **Exhibit "B"**, attached. The terms and conditions under which the Encroachment is to be placed and maintained are as follows:

1. Upon written notification by the City Engineer or Code Enforcement Officer, the above-described Encroachment shall be abandoned, removed, or relocated by OWNER/ORGANIZATION at the OWNER'S/ORGANIZATION'S sole expense.

2. Encroachments shall be maintained in a safe and sanitary condition at all times at the sole cost, risk, and responsibility of OWNER/ORGANIZATION'S and any successor in interest, who shall hold CITY harmless with respect thereto.

3. This Permit, when made for the direct benefit of the OWNER'S/ORGANIZATION'S above-described land or property, and the covenants herein contained shall run with said land and shall be binding on the assigns and successors of OWNER/ORGANIZATION. Should OWNER/ORGANIZATION, or its successors fail to remove or relocate the Encroachment herein permitted within thirty (30) days after notice of removal or relocation, CITY may cause such removal or relocation to be done at OWNER'S/ORGANIZATION'S sole cost and expense.

4. OWNER/ORGANIZATION shall indemnify, defend, and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out arising out of OWNER'S/ORGANIZATION'S entry upon and use of CITY'S easement or right-of-way for the placement, maintenance, and use of the OWNER'S/ORGANIZATION'S Encroachment.

    a. OWNER/ORGANIZATION and each successor in interest or assign shall take out and maintain, during the time the encroachment remains on City's easement or right-of-way, a policy of liability insurance in the nature and amount satisfactory to the Risk Manager and the City Engineer, covering all claims for bodily injury and property damage arising out of this Agreement. This policy shall name the City of National City, its officers, officials, agents, employees, and volunteers, as well as the property owner, and the property owners' agents, officers, and employees, as additional insureds, and a separate additional insured endorsement shall be provided. Said policy shall provide ten (10) days prior written notice to CITY of cancellation and thirty (30) days prior written notice to CITY of material change. Prior to commencement of this Agreement, OWNER/ORGANIZATION shall furnish CITY a certificate of insurance with original endorsements evidencing the coverage required by this Permit. Should OWNER/ORGANIZATION fail to do so, CITY may elect to obtain such coverage at OWNER'S/ORGANIZATION'S expense or immediately terminate this PERMIT.

5. The full terms and conditions under which this Permit is issued are further set forth in Chapter 13.12 of the National City Municipal Code, which terms OWNER/ORGANIZATION expressly agrees to. OWNER/ORGANIZATION also acknowledges that those terms and conditions include, without limitation, the following:

    a. The CITY can require the removal, relocation, or undergrounding of the Encroachment when deemed necessary and feasible by, and in the sole discretion of, the City Engineer at OWNER'S/ORGANIZATION'S expense.

6. This Permit is not valid and confers no rights to place and maintain an Encroachment within the CITY until it is accepted by the OWNER/ORGANIZATION.

7. The OWNER/ORGANIZATION shall provide two copies of a scaled drawing of the proposed Enhancement. The drawing shall be no smaller than 8.5" x11" nor larger than 11" x 17." The drawing shall indicate the curb and property lines, all existing and proposed obstructions (traffic signs, traffic tights, street lights, bus benches, fire hydrants, etc.), and location of proposed exhibit areas, outdoor area furniture, planter boxes, and statuary. Applicants for any business or Community Organization located at a corner property or a street-to-street property shall provide information of both street frontages.

8. The OWNER/ORGANIZATION shall provide two copies of a photograph or photographs of the area of the proposed Enhancement. The photograph(s) shall include the entire area of the Enhancement as well as the adjacent property to each side. Applicants for any business located at a comer property or a street-to-street property shall provide photographs for both street frontages.

9. The applicant shall attend a free training demonstration provided by the CITY prior to displaying outdoor displays or opening an Outdoor Dining Area. (waived by City on: Date_____ / Initial:_____)

10. The applicant shall provide the City with a curb-to-property line card obtained from the City Clerk's Office.

11. This Permit is not transferable.

CITY OF NATIONAL CITY

_____

PERMITTEE

_____

Entity/ Company

_____

Signature

_____

Name & Title
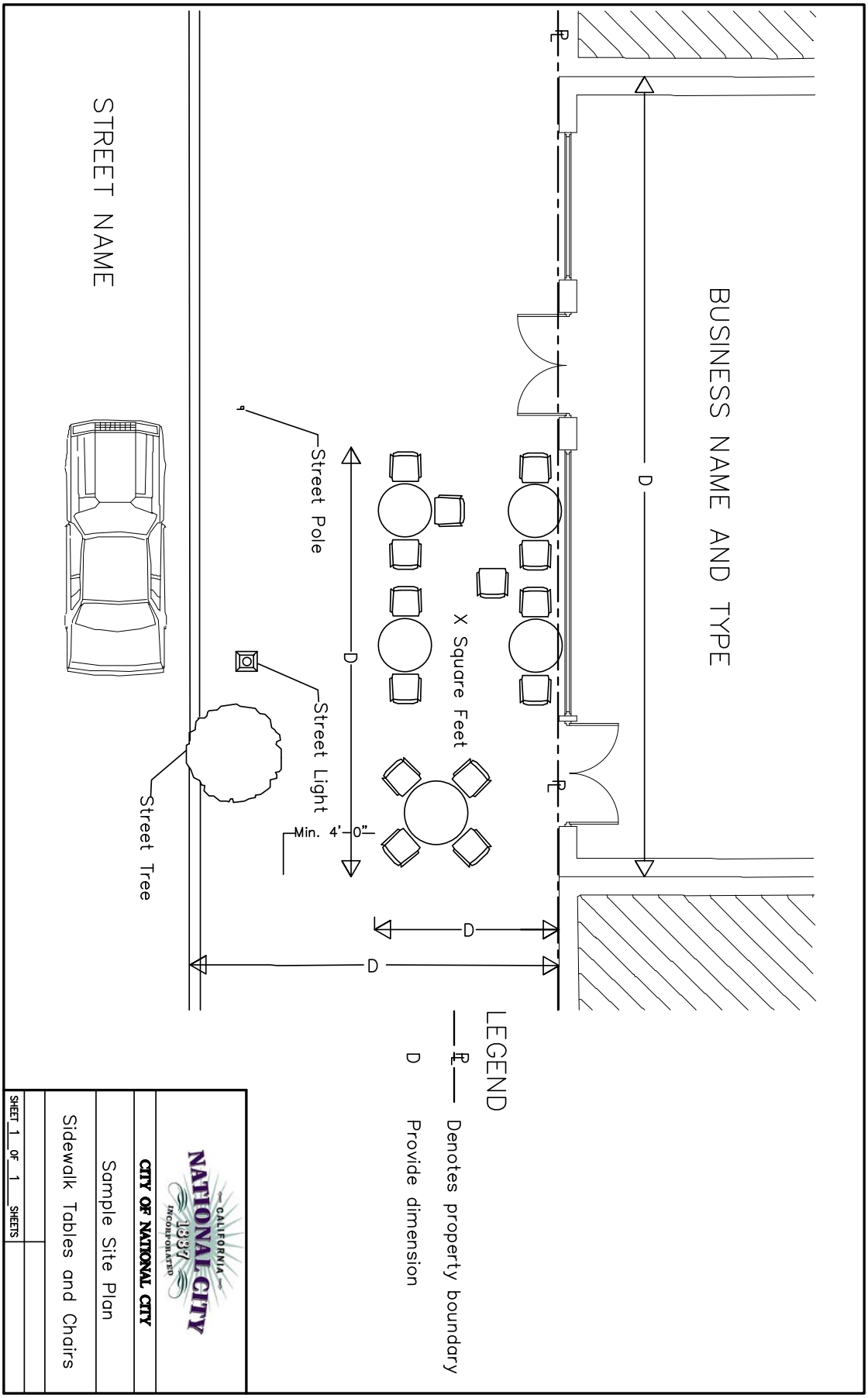
EXHIBIT "B" PROPOSED ENHANCEMENTS & OBSTRUCTIONS