

**CITY OF WAYZATA**  
**HENNEPIN COUNTY, MINNESOTA**  
**ORDINANCE NO. 804**

**AN ORDINANCE AMENDING WAYZATA CITY CODE**  
**CH. 315 RELATED TO OUTDOOR SIDEWALK CAFÉS IN CITY RIGHT OF WAY**

**THE CITY OF WAYZATA ORDAINS:**

**Section 1. Amendments to Chapter 315.** Chapter 315 of the Wayzata City Code (Right-of-Way Management) is hereby amended as follows (~~struck~~ text deleted, underlined text added):

**A.** Section 315.03.A.5.c is amended to read in its entirety as follows:

"Structures", meaning walls, fences, steps, staircases, driveway entrance monuments, signs, landscape walls, structures associated with permitted Outdoor Sidewalk Cafés, or other similar structures that are, in the judgment of the Director of Public Works, removable, and are constructed and maintained by owners of property adjacent to the applicable right of way, at such owner's expense.

All other structures and private improvements not identified in Sections 315.03-~~Subd.~~ A.5.a. through ~~dc~~, including but not limited to buildings or portions thereof, roof overhangs, building cantilevers and similar wall projections that are, in the judgment of the Director of Public Works, not feasibly removable, shall not encroach into or upon the right of way.

**B.** Section 315.05.F is amended to read in its entirety as follows:

**F. ~~Additional Outdoor Sidewalk Café Conditions~~ Requirements.** In addition to the conditions for permits generally in Section 315.05.B, the placement and operation of an outdoor sidewalk cafe in the right of way, shall be subject to the following ~~conditions~~ requirements:

**1. Functional Requirements.**

- a) Existing and/or principal use shall conform to existing City zoning regulations.
- b) Cafe area shall be a minimum distance from a R-1, R-1A, R-2, R-2A, R-3, R-3A, and R-4 residential zoning district, unless the City Council determines that a lesser distance is acceptable that ensures the outdoor sidewalk cafe use would not adversely impact the residential properties:
  - 1) Two hundred-foot minimum for non-alcoholic establishments.
  - 2) Five hundred-foot minimum for alcoholic establishments.

- c) The outdoor sidewalk café area shall be limited to the public right-of-way abutting the lot front as defined by the Zoning Ordinance.
- d) The outdoor sidewalk café area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, etc. unless the permit expressly provides that such devices are not needed, given the nature of the location and café. Segregation device(s) must not cause destruction to the sidewalk or other elements within the public right-of-way.
- e) Minimum clear passage zone for pedestrians at the perimeter of the outdoor sidewalk café area shall be at least five feet without interference from parked motor vehicles, bollards, trees, treegrates, curbs, stairways, trash receptacles, street lights, parking meters, etc.
- f) Overstory canopy of tree/umbrellas extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven feet above sidewalk.
- g) All service aisles and walkways must be located within the enclosed area of the outdoor sidewalk café. Service aisles must not occur from the minimum clear passage zone for pedestrians.
- h) Furniture, furnishings, structures, and other improvements within the and enclosed perimeter of the outdoor sidewalk café must shall be removable in the judgment of the Director of Public Works to allow for seasonal changes, and the area fully restored to then current City standards, at the permit holder's sole expense, upon expiration or revocation of the permit.
- i) No storage of furniture on sidewalk shall be allowed between the months of October and April at any time when the outdoor sidewalk café is not in use for more than three days.
- j) No outside bar, cooking facility, food preparation, or holding area shall be located in the right of way.
- k) Any lighting used to illuminate the outdoor sidewalk café area shall be so arranged as to reflect the light away from the adjoining property and public streets or alleys, and be in compliance with the Zoning Ordinance.
- l) No electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices shall be allowed in the outdoor sidewalk café area.
- m) Heating devices of any kind must comply with all applicable regulations and the recommendations of the Fire Marshall, including safe operation and placement within the outdoor sidewalk café area.

## 2. **Liability and Operational Requirements.**

- a) The property owner, restaurant operator and the City shall enter into a hold harmless and operations agreement, as provided by the City, on terms

acceptable to the City, that exempts the City from all liability claims associated with the outdoor café use, and that governs the operations, aesthetics, and maintenance of the outdoor cafe, including its removal by the property owner at property owner's expense, and provides for financial security for any property damage, liability, and restorative action necessary by the City.

- b) Maintenance of public right-of-way, including landscaping, for which the cafe is located upon shall be the property owner's responsibility.
- c) Security of the cafe area shall be the responsibility of the property owner.
- d) Property owner shall pick up litter within 100 feet of the café on a daily basis.

### **3. Aesthetic Requirements.**

- a) Furniture shall be washable, constructed of metal, plastic or other weather resistant materials and maintained in a safe and sanitary condition.
- b) Plant material shall be in containers to allow for movement.
- c) Annual/perennial flowers shall be used to enhance streetscape aesthetics.
- d) Canopies/umbrellas shall be used for summer sun protection subject to the provisions of the Zoning Ordinance.
- e) Trash receptacles matching the appearance and color scheme of other furniture shall be provided.
- f) Design of site furnishings and café layout shall be reviewed prior to installation by the City subject to the above provisions.
- g) Any other standards deemed appropriate by the City for the location and type of outdoor sidewalk café.

- 4. **Duration.** An Outdoor Sidewalk Cafe Permit approved by the City Council expires one year from the date of the Council approval, and may be issued for a limited number of months of operation, or year round operations. The applicant must submit an application annually for renewal of the Outdoor Sidewalk Café Permit.

- C. Section 315.07 is amended to add the following new subsection D, with subsequent subparts renumbered/re-lettered accordingly:

**D. Outdoor Sidewalk Café Fees.** The City shall establish Outdoor Sidewalk Café permit fees in an amount sufficient to recover the City administration and management costs, and the costs associated with the number and type of structures in the right-of-way, and the months of operation of the café.

**Section 2. Effective Date.** This Ordinance will become effective upon passage and publication.

Adopted by the City Council this 6<sup>th</sup> day of April, 2021.

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Johanna Mouton  
Mayor

ATTEST:

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Jeffrey Dahl  
City Manager

First Reading:        March 16, 2021  
Second Reading:     April 6, 2021  
Publication:         April 15, 2021