CITY OF YAKIMA
LEGAL
DEPARTMENT

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MEMORANDUM

May 21, 2020

TO: Honorable Mayor and Members of the City Council
               Alex Meyerhoff, Interim City Manager

FROM: Joan Davenport, Community Development Director
               Sara Watkins, Senior Assistant City Attorney

SUBJECT: Facilitating the Use of Public Spaces to Accommodate Restaurants and Bars
               During the COVID-19 Pandemic

At the May 19, 2020 City Council meeting you asked staff to return with information regarding waiving the permit fee for outdoor seating at restaurants and bars (sidewalk café permit). This memo addresses that issue, as well as provides some information on other possible actions that can be taken to help the restaurant and bar industry due to the state restrictions imposed as a result of the COVID-19 pandemic.

1.   Current regulations regarding outdoor or sidewalk seating.

Under Yakima Municipal Code section 5.80, sidewalk cafes can be permitted by the code administration manager. The application includes a site plan, description of business, hours of operation, and proof of necessary permits (i.e., if alcohol is served, the liquor permit), as well as additional information about the use of the sidewalk for a café. The permit can be issued with conditions relating to:

    a. Dates and hours of operation;
    b. Number and placement of chairs, tables and barriers;
    c. Periodic cleaning of the sidewalk area;
    d. Accommodation of access and deliveries to other businesses; or
    e. Lighting and illumination.

Permittees are required to also execute a hold harmless agreement holding the City harmless from any damages or injuries which may accrue by reason of the operation of the sidewalk café, and provide liability insurance of not less than $100,000 per incident, $300,000 aggregate; and $50,000 of property damage coverage.

If permittees want to do permanent improvements in the right-of-way, those improvements must be approved by the City. An example of such improvements is the area in front of Second Street Grill, where fencing and an awning were installed as part of their sidewalk café plan and permit. Sidewalk cafes are largely a condition of the CBD zoning district because businesses in

the CBD are not required to have a parking lot. Therefore, the only space these buildings have to expand capacity is the sidewalk areas in front of and adjacent to the restaurants.

Further, in all cases, a four foot sidewalk must remain so that the sidewalk is ADA compliant and pedestrian traffic, including travel for those in wheelchairs, can continue around the sidewalk café without problems.

There is a permit fee of $50.00.

2. Waiver of the fee requirement.

The City Council has the authority to waive the fee requirement for this permit for a temporary period during the COVID-19 emergency and the phased opening of Washington's businesses.

3. Additional options to aid the restaurant and bar industry: use of private parking lots for outdoor seating.

The Governor's Phase 2 restaurant and tavern reopening requirements include[1] the following provisions that apply to all restaurants and bars seeking to reopen once Yakima County is allowed to move into Phase 2:[2]

> No bar seating is permitted;
> All parties and tables must be 5 guests or less;
> Guest occupancy must be 50% of maximum building occupancy or lower as determined by the fire code;
> Outdoor seating is permitted but must be at 50% capacity and follow all other requirements; and
> Tables must be placed far enough apart—6 feet away from guests at adjacent tables.

Outside the CBD zoning district, restaurants are required to furnish their own parking lots with a required number of spaces based on the indoor square footage (1 parking space per 50 square feet of indoor public floor area). Since the indoor capacity of the restaurant is limited due to the COVID-19 pandemic, one option is to allow outdoor dining in required parking spaces by granting a temporary variance to convert required parking spaces into outdoor seating. Staff would still want a request in writing to use the parking spaces and a site plan under the modification procedures of Title 15. However, the City could waive the modification fee associated with the review. Additional information from the applicant may be necessary, such as liquor license information, but the modification could be done administratively. The City would review these as minor modifications, which allows for an abbreviated review under YMC 15.17.

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[1] This is not a complete list of the requirements, only those that are relevant to the idea of providing restaurants and bars outdoor space.
[2] Yakima County may be in Phase 2 at the time of the June 2, 2020 City Council meeting depending on if the County meets the required thresholds outlined in the Governor's plan.

4.   Enclosed Resolution.

The enclosed proposed resolution would do two things:

     a. Waive the permit fee for sidewalk cafes; and
     b. Waive the application fee for modifications for restaurants and bars that want to convert a portion of their private parking lots into outdoor dining.

In both cases the waiver of the fees would be effective through the city and state emergency declarations, and through Governor Inslee's Safe Start Washington plan which phases in capacity at restaurants and bars. Only at phase 4 is there 100% capacity, so the waivers in the resolution would be good until that time.

Sidewalk café permits are issued yearly, so next year if restaurants and bars wanted to continue to have outdoor seating, they would have to go through the process and pay the fee.

Modifications allowed under the proposed resolution to use private parking lots would only allow such use up until Phase 4 when the restaurant or bar can go back to 100% occupancy indoors. If permanent outdoor dining is desired after that, the establishment will have to go through the normal process.

SW/pm