

**GENERAL ORDINANCE NO. 04-1252**

**AN ORDINANCE ALLOWING FOR THE PLACEMENT OF  
SIDEWALK FURNITURE IN THE CENTRAL BUSINESS  
COMMERCIAL ZONE AND REPEALING GENERAL  
ORDINANCE NO. 88-1091**

THE COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to provide standards for the siting and use of sidewalk furniture associated with downtown businesses.

Section 2. Definition. “Sidewalk furniture” includes items placed in the public sidewalk by businesses for incidental use by their customers while patronizing said business, and includes, but is not limited to:

- planters;
- flower boxes;
- chairs;
- benches;
- tables;
- umbrellas;
- lights;
- heaters;
- street clocks;
- trash cans and ashtrays; and
- any other fixture or furnishing deemed to be similar by the Community Development Department Director (hereinafter referred to as the “Director”).

Sidewalk furniture does not include signs, which are regulated under a separate ordinance.

Nothing in this ordinance shall be construed to allow the vending of goods on streets or sidewalks, which is regulated under a separate ordinance.

Nothing in this ordinance shall be construed to pertain to the placement of objects, similar to sidewalk furniture or otherwise, in the public right-of-way by the City or any other authorized public agency, public/private agency, or utility.

Section 3. Permit. A permit is required in order to place sidewalk furniture in the public right-of-way.

Section 4. Review Procedures.

- A. Applications. In addition to the requirements of Section 3.010: Application Procedures, of General Ordinance No. 98-1222, applications for sidewalk furniture shall be accompanied by:
1. A plot plan drawn to scale that indicates the location and dimensions of:
    - a) the property;
    - b) the building in which the business is located, including the location of doors;
    - c) the public right-of-way, including sidewalk, adjacent to the property;
    - d) location of existing sidewalk furniture;
    - e) location of trees, mailboxes, signs, utility poles, trash receptacles, and any other permanent or semi-permanent features;
    - f) any other information necessary to make a determination of the appropriate placement of sidewalk furniture in accordance with the standards of this ordinance.
  2. A dimensioned diagram of the proposed sidewalk furniture, including the colors and materials of said items.
  3. Signatures of the applicant and the property owner(s).
- B. Review. Where allowed, sidewalk furniture shall be permitted outright as accessory to the primary use, and as such shall be processed as a ministerial action, per the provisions of Section 3.020.030: Ministerial Actions of General Ordinance No. 98-1222, and approved, approved with conditions, or denied by the Director.

Section 5. Review Criteria.

- A. Permitted Zones. Sidewalk furniture is allowed for any permitted businesses in the Central Business Commercial Zone.
- B. Location. Sidewalk furniture may be placed in the public sidewalk right-of-way, in conformance with the following standards:

1. Where there is a minimum of six feet (6') of clear, concrete sidewalk passage, excluding pavers.
2. Adjacent to the property occupied by the business.

C. Placement.

1. Sidewalk furniture shall not be placed closer than three feet (3') from the entrance to the business or storefront, measured from the nearest door edge to the near edge of the sidewalk furniture (see Exhibit 1).
  - a) Where a door swings into the public right-of-way, street furniture can be placed next to the door on the hinged side.
2. Sidewalk furniture shall not be placed closer than three feet (3') from the edge of the property line or property corner, measured from the nearest property corner to the near edge of the sidewalk furniture (see exhibit 2).
3. Sidewalk furniture shall not be placed in front of murals, except where the bottom of the mural is above the top of the sidewalk furniture.
4. Sidewalk furniture shall not be allowed in alleys.

D. Dimensions. Sidewalk furniture shall not exceed the following dimensions:

1. Maximum width shall be twenty-five inches (25").
2. Maximum height shall be:
  - a) ninety-six inches (96") for items attached to poles that are no greater than eight inches (8") in width or diameter.
  - b) forty-five inches (45") for all other items.
3. There is no set maximum length. The maximum length shall be determined by other restrictions set forth in this section.

E. Hours. Planters, flower boxes, trash cans, benches, street clocks, and other similar objects shall be allowed to remain outside when the business is closed, but only if they are securely attached to the ground or adjacent structure. All other sidewalk furniture shall be placed outside only during business hours.

F. Attachments. No extraneous fixed or moving attachments shall be placed on any

sidewalk furniture.

G. Materials. In an effort to ensure that sidewalk furniture is attractive and durable, the following standards shall apply:

1. Tables, chairs, benches, planters, and flower boxes. At least 50% of the exterior surface of any item must be constructed of metal and/or wood.

H. Design. In order to reduce or eliminate unsightly sidewalk furniture, and to preserve the historic character of downtown The Dalles, the following standards shall apply:

1. Prohibited colors.

a) any fluorescent, day-glow, glittery, or reflective color.

2. Preferred colors.

a) colors from Historic color palettes;

b) natural wood, brick, or metal.

3. Historic Districts. Sidewalk furniture in The Dalles Commercial Historic District and Trevitt's Addition shall adhere to design standards set forth in the document entitled "Design Guidelines for The Dalles Commercial Historic District and Trevitt's Addition".

4. Advertisements. Advertising on sidewalk furniture is prohibited, except in the following instances, as determined by the Director:

a) on the faces of street clocks;

b) placement of the permittee's business name in an unobtrusive or incidental manner, not to exceed 2" in height by 8" in width, with a limit of one per piece of sidewalk furniture;

c) incidental logos that are affixed by the manufacturer and do not advertise the permittee's business.

I. Maintenance. In order to reduce or eliminate unsightly items, sidewalk furniture must be kept in a state of good repair and condition, and free from the following conditions:

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1. Rust;

2. Chipped or peeling paint or finishes;
3. Delaminating or peeling materials;
4. Missing hardware;
5. Rotting materials;
6. Poor craftsmanship or construction that would cause the item to be structurally unsound and thereby pose a health or safety hazard;
7. Any other condition that the Director deems to be contrary to the purposes of promoting visually-appealing and structurally sound sidewalk furniture.

J. Installation. In order to provide for a safe pedestrian environment, all sidewalk furniture shall be braced, weighted, or affixed so that it cannot be blown away by the wind.

1. No sandbags, concrete blocks, scrap metal, or other similar materials shall be used to stabilize any sidewalk furniture.
2. No items may be attached or affixed to sidewalks, signs, bollards, mailboxes, public street furniture, or any other public fixture or furnishing, without the consent of the Director of the Public Works and the Director of the Community Development Department.

K. Use.

1. Sidewalk furniture shall not be used for the display of merchandise that is for sale.
2. Sidewalk furniture legally placed in the sidewalk by a private party may be reserved for the exclusive use of the business patrons of said party.

L. Prohibited Furniture. For reasons of safety, the following objects are prohibited:

1. Umbrellas. Strong, gusty winds in the area make umbrellas inappropriate.
2. Any other fixture or furnishing deemed to be hazardous, unsafe, or dangerous by the Director.

Section 6. Liability and Insurance. The applicant shall submit a signed statement providing that the applicant shall hold harmless the City of The Dalles, its officers and employees and shall indemnify the City of The Dalles, its officers and employees for any claims for damages to

property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Applicant shall furnish and maintain such public liability, and property damage insurance as will protect applicant and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall have a combined single limit coverage of \$500,000 per occurrence for bodily injury and property damage. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the City of The Dalles and its officers and employees and shall further provide that the policy shall not terminate or be cancelled without first providing thirty (30) days written notice to the Director.

Section 7. Enforcement.

- A. The following notice and enforcement standards shall apply to the placement and display of sidewalk furniture.
  - 1. For purposes of administering the provisions of this ordinance, the City Manager shall appoint appropriate staff persons.
  - 2. Unsafe sidewalk furniture shall be defined as sidewalk furniture that violates any of the following provisions:
    - a) any placement standard set forth in Section 5, C, 1, 2, 3, and 4;
    - b) any dimensional standard set forth in Section 5, D;
    - c) any maintenance standard set forth in Section 5, I.
  - 3. The applicant shall take action to assure that their sidewalk furniture remains in compliance with the applicable standards at all times.
  - 4. In the case of sidewalk furniture that has been determined to be unsafe, the authorized staff person shall immediately attempt to give verbal notice of the violation to the owner or owners of the business(es) that holds the permit for the sidewalk furniture, or to an on-site employee of the business(es). In the event the responsible person(s) who is provided notice under this section refuses to correct the violation immediately, the authorized staff person shall remove or cause others to remove and impound the sidewalk furniture.

- 5. In the case of sidewalk furniture which is displayed during non-business hours, the authorized staff person shall issue a written notice of the violation. The notice shall be given to the owner or owners of the business(es) that holds the permit for the sidewalk furniture, and shall be

either delivered personally or by certified mail, return receipt requested, sent to the owner's last known address of record. The notice shall require correction of the violation within five (5) days from either the date of the personal delivery of the notice, or the date of mailing of the notice.

- a) If the violation is not corrected within the five (5) day period, the authorized staff person shall send a second written notice of violation, by certified mail, return receipt requested, to the owner or owners of the business(es) that holds the permit for the sidewalk furniture, indicating that the sidewalk furniture may be impounded if the violation is not corrected within five (5) days from the date of mailing of the notice.
- b) If the violation remains after issuance of the second notice, the authorized staff person may remove or cause others to remove and impound the sidewalk furniture.

6. For other sidewalk furniture that has been determined not to conform to the provisions of this ordinance, the authorized staff person shall issue a written notice of non-compliance. The notice shall be given to the owner or owners of the business(es) that holds the permit for the sidewalk furniture. The notice shall either be delivered personally to the business owner(s), or sent by certified mail, return receipt requested, to the business owner(s) at the owner's last known address of record. The notice shall set forth the nature of the violation, and shall require the violation be corrected within fifteen (15) days from either the date of personal delivery or the date of mailing of the notice, unless the time for compliance is extended for good cause shown. If the non-conforming sidewalk furniture is not brought into compliance within the required time period, the authorized staff person may remove or cause others to remove and impound the sidewalk furniture.

7. Upon impoundment of sidewalk furniture under the provisions of Section 7,A,4, 5, or 6, the authorized staff person shall post a notice of impoundment in a visible location upon the premises of the business that holds the permit for the sidewalk furniture. The authorized staff person shall immediately provide a copy of the impoundment notice to the business owner(s) by either personal delivery or by certified mail, return receipt requested, sent to the owner's last known address of record.

- a) The notice of impoundment shall specify the sections of the ordinance which have been violated, the place and time when the impounded sidewalk furniture can be recovered, the cost of any fee which must be paid to recover the sidewalk furniture, and the length of time until the impounded furniture is discarded if the

sidewalk furniture is not reclaimed.

- b) The notice shall also provide the owner(s) of the sidewalk furniture that has been impounded with notice that they may request a hearing to contest the validity of the impoundment. A request for a hearing must be made, to the Director, within five (5) calendar days after either the date of personal delivery of the impoundment notice, or the date that notice of impoundment was mailed, as evidenced by the postmark, not including Saturdays, Sundays, or holidays. When a timely request for a hearing is made, a hearing shall be set in the Municipal Court for four (4) calendar days after the request is received, excluding Saturdays, Sundays, or holidays, but may be postponed at the request of the person asking for the hearing. The Municipal Court Judge shall determine whether impoundment of the sidewalk furniture was proper.

8. In order to retrieve impounded sidewalk furniture, the owner of the sidewalk furniture shall present a copy of the impound notice to the Director, at the time and place indicated on the notice of impoundment.

- a) The fee to retrieve impounded sidewalk furniture for a first violation of this ordinance shall be ten dollars (\$10.00). The fee to retrieve impounded sidewalk furniture for a second violation of this ordinance shall be fifty dollars (\$50.00). The fee to retrieve impounded sidewalk furniture for a third violation of this ordinance shall be one hundred dollars (\$100.00). For each subsequent violation of this ordinance, the fee to retrieve impounded sidewalk furniture shall be one hundred dollars (\$100.00). For purposes of this section, the number of offenses shall be calculated based upon the number of violations attributable to the business owner(s) of the sidewalk furniture, who has violated the provisions of this ordinance.
- b) Any sidewalk furniture which has been impounded and is not reclaimed within ninety (90) days from the date of impoundment, may be disposed of by the authorized staff person.

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Section 8. Repeal. General Ordinance No. 88-1091, adopted on August 15, 1988, is hereby repealed.

Section 9. Emergency Clause. Whereas, local downtown business owners are continuing to face economic challenges in light of current economic conditions; and whereas, providing an option

to the business owners to place street furniture on the sidewalks adjacent to their businesses will provide an opportunity for local business owners to attract customers, and promote the economic health and welfare of the City; and whereas, implementing a process for placement of street furniture as soon as possible will allow local merchants to attract potential customers during the upcoming tourist season and a time when several public events are scheduled, which will enhance the opportunity for economic benefits for local business owners; and whereas, the regulations in the proposed ordinance will ensure the street furniture is placed in a manner that protects the safety and welfare of pedestrians using the sidewalks; Now, therefore, an emergency is declared to exist and this ordinance shall go into effect immediately upon its passage and approval.

Adopted by the City Council and approved by the Mayor April 12, 2004.