



TOWN OF FAIRFAX

STAFF REPORT

November 4, 2020

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Adoption of “An Ordinance Of The Town Council Of The Town Of Fairfax Authorizing The Town Manager To Issue Temporary Outdoor Use Permits To Allow Restaurants And Other Businesses To Provide Outdoor Dining, Other Retail/Commercial Uses, And Curbside Pickup And Waiving Any Applicant Fees In The Town’s Review Process, And Authorizing The Expiration Date Of Such Permits To Be Set By Resolution” and Adoption of a Resolution Setting A Expiration Date of May 31, 2021 For The Issuance Of Temporary Outdoor Use Permits To Allow Restaurants And Other Businesses To Provide Outdoor Dining, Other Retail/Commercial Uses, And Curbside Pickup; categorical exemption under the California Environmental Quality Act (CEQA) Guidelines Section 15301, Class 1 (Existing Facilities)

RECOMMENDATION

- 1) Waive second reading, read by title only and adopt: “An Ordinance of the Town Council of the Town of Fairfax Authorizing the Town Manager to Issue Temporary Outdoor Use Permits to Allow Restaurants and Other Businesses to Provide Outdoor Dining, Other Retail/Commercial Uses, and Curbside Pickup and Waiving any Applicant Fees in the Town’s Review Process, and Authorizing the Expiration Date of Such Permits to Be Set by Resolution” and
- 2) Adopt a Resolution setting an expiration date of May 31, 2021 for the issuance of temporary outdoor use permits to allow restaurants and other businesses to provide outdoor dining, other retail/commercial uses, and curbside pickup.

BACKGROUND

In June 2020, the Council adopted an Urgency Ordinance allowing TUP’s which permit outdoor dining and other retail/commercial uses in private spaces such as parking lots. There is no fee for the TUP. The TUP’s are good for an initial 120-day period with the ability of staff to issue a one-time 60-day extension. To date, staff has issued 6 TUP’s (see below). All permits are active either under the initial 120-day period or the one-time 60-day extension. All TUP’s could not be extended past November 30, 2020.

Several businesses have inquired about the possibility of the Town extending the TUP deadlines beyond November 30, 2020. The businesses would like to know so they can invest in improvements (e.g., coverings) to better weatherize the outdoor dining areas for the fall and winter months. Many of the TUP improvements consist of tables and umbrellas in private outdoor parking areas. Several other Marin communities will also be considering the extension of deadlines for the various uses of outdoor public spaces. Other communities have open-ended deadlines for the use of outdoor public and private spaces.

DISCUSSION

Given the uncertainty of COVID-19 regarding vaccines, limits on indoor uses, and the possibility of a resurgence, at its October 28th special meeting, the Council introduced an ordinance to extend TUP's through May 31, 2021. This prevents a significant gap between the current expiration date of TUP's (11/30/20) and the effective date of the regular ordinance to extend the TUP deadline. This ordinance would give businesses the ability to make investment decisions based on the extended expiration date.

This is the adoption and second reading of the Ordinance. If adopted, it will take effect in 30 days.

The proposed ordinance allows the Town Manager or his designee (e.g., Planning and Building Services Director) to issue TUP's for an initial 120-day period with an ability to grant extensions for up to a 90-day period. All TUP's will expire on the date established by the Council. Prior to granting extensions, staff will contact the businesses to confirm their interest in renewing their TUP's. We will also inform the businesses to check with us before installing coverings to ensure they meet any applicable building codes.

To provide the Council with added flexibility, the ordinance allows the Council to establish the expiration date by resolution, which is much simpler to do and the resolution takes effect immediately. As directed by the Council, the attached resolution establishes an initial expiration date of May 31, 2021.

FISCAL IMPACT

To be determined

ATTACHMENTS

- A. Ordinance
- B. Resolution