



# TOWN OF FAIRFAX

## STAFF REPORT

### May 4, 2022

**TO:** Mayor and Town Council

**FROM:** Heather Abrams, Town Manager and Mark Lockaby, Building Official

**SUBJECT:** Receive an Update on Outdoor Dining

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#### **RECOMMENDATION**

Staff recommends that the Council receive the following update on outdoor dining.

At a future meeting council will be asked to:

- A. Adopt the zoning change to allow outdoor dining on an on-going basis, following Planning Commission review of the zoning change.
- B. Adopt an ordinance permitting long-term outdoor dining structures, including establishing design regulations of the structures, and permitting fees.

#### **BACKGROUND**

In June 2020, Fairfax began allowing outdoor dining in response to COVID-19 restrictions via temporary encroachment permits (TEPs) to use the public right-of-way, and temporary use permits (TUPs) for private outdoor spaces. On May 5, 2021, Council extended the term for TEPs and TUPs to May 8, 2022. On April 6, 2022 Council provided direction on the new requirements for outdoor dining structures, and the Council extended the current TEPs and TUPs to November 1, 2022, with a July 29, 2022 deadline for checking in with current TEP and TUP holders on their progress toward complying with the Council's direction, and the Council directed staff to return with an updated and expanded ordinance for on-going TEPs and TUPs, and to return with a zoning change to allow outdoor dining on an on-going basis. Because the on-going outdoor dining program requires zoning changes, additional time is needed to have the Planning Commission review the zoning changes.

The Council's direction regarding the requirements of outdoor dining structures going forward has been communicated with the public and the businesses via Town Council Meetings, newspaper articles, the Town Newsletter, and letters directed to the nine businesses that currently have outdoor dining.

#### **DISCUSSION**

At the April 6, 2022 Council Meeting, Council directed the following requirements will be implemented for outdoor dining.

1. No fixed overhead coverings, i.e. roofs and sunshades. Movable umbrellas allowed and may have branding or business names printed on the umbrellas.

2. No gas outdoor heaters. Electric heaters are allowed with proper safety measures for cords and fire danger.
3. Electric lighting and reflective tape along the outside edge of the structure is required.
4. Signage is not allowed on the outside of the outdoor dining structure.
5. Annually, Town will charge permit fees and rental/license fees for use of the Town's space, and an annual inspection may be required. Permits can be approved ministerially and do not require further approval by Planning Commission nor Town Council.
6. Do not allow new outdoor dining structures until after November 1, 2022 extension has elapsed and new ordinance and zoning regulations are in place.
7. Outdoor dining only allowed along the length or width of the business, not in front of another business, unless both share the space via agreement.
8. Minimum four feet of unobstructed sidewalk adjacent to the outdoor dining.
9. Maximum of two parallel spaces or four diagonal spaces can be used for outdoor dining per business.
10. Outdoor dining structures must be constructed to safeguard public safety, including:
  - a. Sightlines for corners and driveways
  - b. Set back one foot from lane of travel
  - c. Set back needed for adjacent parking
  - d. Do not obstruct fire hydrants nor storm drainage, and provide easy access to in-street utilities
  - e. Outdoor dining only allowed in commercial zones with speed limit 25 miles per hour or less
  - f. Meet ADA requirements (platform flush with sidewalk, etc.)

Draft design guidelines for construction of outdoor dining structures are being prepared. Several of the existing structures will need to be removed and/or significantly remodeled to meet the new requirements. The new outdoor dining ordinance and zoning update do not contemplate vehicle delivery/pick up zones, and do not contemplate regular outdoor display or sales of merchandise.

**FISCAL IMPACT**

None at this time.