

RESOLUTION 22-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
EXTENDING THE TERMS OF CERTAIN RIGHT-OF-WAY USE AGREEMENTS FOR
TEMPORARY OUTDOOR USES AND TEMPORARY OUTDOOR USE PERMITS TO
ALLOW RESTAURANTS AND OTHER BUSINESSES TO PROVIDE OUTDOOR
DINING, OTHER RETAIL/COMMERCIAL USES, AND CURBSIDE PICKUP TO
JANUARY 1, 2023**

WHEREAS, the Town Council proclaimed the existence of a local emergency related to COVID-19 on March 17, 2020 and such local emergency still exists; and

WHEREAS, on May 5, 2021 the Town Council adopted Resolution 21-13 “A Resolution of the Town Council of the Town of Fairfax Extending the Terms of Certain Right-of-Way Use Agreements for Temporary Outdoor Uses to May 8, 2021”; and

Whereas, also on May 5, 2021, the Town Council adopted Resolution 21-12 “A Resolution of the Town Council of the Town of Fairfax Extending the Expiration Date to May 8, 2022, of Temporary Outdoor Use Permits to Allow Restaurants and Other Businesses to Provide Outdoor Dining, Other Retail/Commercial Uses, and Curbside Pickup”; and

WHEREAS, on June 3, 2020 the Town Council adopted Resolution 20-19 “A Resolution of the Town Council of the Town of Fairfax Authorizing the Town Manager to Enter into Certain Right-of-Way Use Agreements for Temporary Outdoor Use and to Close Streets for Outdoor Events;” and

WHEREAS, on November 4, 2020, the Town Council adopted Resolution 20-36 “A Resolution of the Town Council of the Town of Fairfax Extending the Terms of Certain Right-of-Way Use Agreements for Temporary Outdoor Uses to May 31, 2021”; and

WHEREAS, the conditions and concerns that led the Town Council to adopt Resolution 20-19 still exist; and

WHEREAS, Ordinance No. 849 requires the Town Council to set the expiration dates for all Temporary Outdoor Use Permits by resolution; and,

WHEREAS, the Town Council adopted Resolution No. 20-35 setting the expiration date of May 31, 2021 for all Temporary Outdoor Use Permits; and

WHEREAS, the Town Council wishes to modify and extend the expiration terms of the Right-of-Way Use Agreements for Temporary Outdoor Uses authorized by Resolution 21-13; and

WHEREAS, the Town Council wishes to modify and extend the expiration date for all Temporary Outdoor Use Permits,

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Fairfax as follows:

1. Findings. The Town Council finds that the aforementioned recitals are true and correct and are herein incorporated into this Resolution.

2. Terms. The initial term of the Right-of-Way Agreement for Temporary Outdoor Uses shall be no longer than 120 days, but may be renewed in periods lasting up to 90-days at the sole discretion of the Town Manager or his or her designee. All Right-of-Way Agreements shall expire by January 1, 2023.

3. Terms. The initial term of the Temporary Outdoor Use Permits shall be no longer than 120 days, but may be renewed in periods lasting up to 90-days at the sole discretion of the Town Manager or his or her designee. All Temporary Outdoor Use Permits shall expire by January 1, 2023.

4. CEQA Exemption. The Town Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this resolution, and the prohibitions established hereby, may have a significant effect on the environment, because the resolution only provides for the temporary uses of developed space. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations. The Town Council further finds that the uses authorized by this Resolution are minor public alterations in the condition of land which do not involve removal of healthy, mature, scenic trees. Therefore, the resolution is exempt from California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15304(e) of the California Code of Regulations.

5. Severability. If any provision of this Resolution or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extent, the provisions of this Resolution are severable. The Town Council declares that it would have adopted this Resolution irrespective of the invalidity of any portion thereof.

6. Conflicts. This Resolution takes precedent over any conflicts with Resolutions 21-12 and 21-13.

7. Effective Period. This Resolution shall take effect immediately upon adoption and shall remain valid until rescinded by the Town Council.

The foregoing Resolution was duly passed and adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 6th day of April 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

Stephanie Hellman, Mayor

Attest: _____
Michele Gardner, Town Clerk