



CITY OF

NEWPORT BEACH

City Council Staff Report

September 14, 2021
Agenda Item No. 25

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Seimone Jurjis, Community Development Director - 949-644-3232,
sjurjis@newportbeachca.gov

PREPARED BY: Makana Nova, Senior Planner, mnova@newportbeachca.gov
PHONE: 949-644-3249

TITLE: Resolution No. 2021-84: An Additional Extension of Emergency
Temporary Use Permits (PA2020-069)

ABSTRACT:

For the City Council's consideration is a resolution to extend the emergency temporary use permits ("ETUPs") through December 31, 2021. ETUPs were issued to commercial and institutional uses to operate on private property, parking lots, sidewalks and public property. If ETUP holders wish to continue their permitted outdoor uses, then they could apply for a limited-term permit which would be reviewed on a case-by-case basis. The attached resolution will also continue to waive application fees and waive Council Policy L-21 (Sidewalk Café Standards for Procedures) for limited-term permits.

RECOMMENDATION:

- a) Conduct a public hearing;
- b) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines under Class 1 (Existing Facilities), because this project has no potential to have a significant effect on the environment; and
- c) Adopt Resolution No. 2021-84, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing an Additional Extension of Emergency Temporary Use Permits Issued to Commercial and Institutional Uses to Operate on Private Property, Parking Lots, Sidewalks, and Public Property and Temporarily Waiving Council Policy L-21 (PA2020-069).*

DISCUSSION:

On June 8, 2021, the City Council adopted Resolution No. 2021-058 extending ETUPs through September 6, 2021. In late July 2021, the Delta variant of the coronavirus created additional challenges for businesses, making it more difficult for businesses to return to usual operations in compliance with Cal OSHA Emergency Temporary Standards and guidelines of other agencies regarding physical distancing, increased ventilation, and the use of outdoor areas as measures to reduce transmission of COVID-19.

The attached resolution proposes to extend ETUPs through December 31, 2021, to allow for commercial and institutional uses (such as outdoor dining for restaurants) holding an effective ETUP to continue to utilize private property, parking lots, sidewalks, and public property.

The resolution also proposes to waive [Council Policy L-21 \(Sidewalk Café Standards and Procedures\)](#) for the duration of ETUPs and associated Limited Term Permit (“LTP”) applications. This waiver of standards would allow improvements to continue to provide a four-foot walkway width where a six-foot width is typically required under the Council Policy.

Limited-Term Permits

If ETUP holders want to continue using outdoor space, they must apply for an LTP and associated coastal development permit to authorize the use following the expiration of their ETUPs. Applications are reviewed on an individual basis based on the merits of the location, availability of parking, and land use compatibility.

To date, the City of Newport Beach has received 24 LTP applications, with interest expressed by several others to continue with outdoor dining. The pending LTP applications are in the review process based on their individual merits, including land use compatibility and the availability of parking. If the LTP application is longer than 90 days, then the application is reviewed by the Zoning Administrator at a public hearing. The maximum time an LTP may be granted by the Zoning Administrator is typically 12 months.

Applications requiring a coastal development permit will also be reviewed by the Zoning Administrator at the same public hearing, regardless of the term requested under the LTP application. The coastal development permit considers potential impacts to coastal resources, coastal access, and conformance with the Local Coastal Program and Coastal Act.

Public Outreach

If the attached resolution is adopted, staff will notify all ETUP holders who have not submitted an LTP application and ask them to do so by October 15, 2021. This will provide time for staff to process the LTP applications and hold a public hearing before December 31, 2021.

FISCAL IMPACTS:

This resolution proposes to waive application fees for LTPs and associated coastal development permits requested by ETUP holders. Depending on how many businesses apply for a limited-term permit, it is estimated that the cost of the fee waivers is \$200,000 in lost revenue.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, under Class 1 (Existing Facilities) because it has no potential to have a significant effect on the environment. The project consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. This exemption includes additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Resolution No. 2021-84