



# TOWN OF FAIRFAX

## STAFF REPORT

### November 4, 2020

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager

**SUBJECT:** Adopt a resolution to extend the terms of temporary outdoor encroachment permits to May 31, 2021; Categorical exemption under CEQA Guidelines Section 15061(b)(3) and Section 15304(e)

---

#### **RECOMMENDATION**

Adopt a resolution to extend the terms of temporary encroachment permits (i.e., right-of way agreements) to May 31, 2021.

#### **BACKGROUND**

In June 2020, the Council took actions to allow for outdoor dining and business uses. One of the actions was the adoption of a resolution allowing staff to issue temporary outdoor encroachment permits (TEP's) to allow outdoor dining and business uses in the public right-of-way such as parks and parking spaces. The Council granted authority to the Town Manager to establish the standards that allow restaurants and other businesses to temporarily operate in a safe, expanded outdoor capacity in the public right-of-way with a TEP. There is no fee for the TEP. TEP'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 9 TEP's. Currently, TEP's cannot be extended past November 30, 2020.

Several businesses have inquired about the possibility of the Town extending the TEP deadline 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 TEP improvements consist of platforms with railings in the public parking spaces.

#### **DISCUSSION**

Given the uncertainty of COVID-19 regarding vaccines, limits on indoor uses, and the possibility of a resurgence, at its October 28<sup>th</sup> special meeting, the Council requested staff to extend the use of TEP's through May 31, 2021 (approx. end of Spring 2021). This would give businesses the ability to make investment decisions based on the extended expiration date.

At the October 28<sup>th</sup> meeting, staff indicated we would return with a resolution to extend the TEP's to May 31, 2021 for consideration at this meeting. The extension terms of the TEP's were also modified to allow for administrative extensions lasting up to 90-days. This allows the TEP extension terms to be consistent with the extension terms of Temporary Use Permits (TUP's) as well as prevents any potential confusion between TEP's and TUP's. Staff will also confirm with current TEP's holders their interest in extensions and remind users of the required conditions of approval.

**FISCAL IMPACT:** n/a

**ATTACHMENT:** Resolution