



# TOWN OF FAIRFAX

## STAFF REPORT

### June 3, 2015

**TO:** Mayor and Town Council

**FROM:** Michele Gardner, Town Clerk 

**SUBJECT:** Second reading by title only and adoption of Ordinance No. 793 amending Chapter 17.036 of the Town Code, to update the procedure for directed referrals by the Town Council

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#### **RECOMMENDATION**

Waive second reading and read by title only and adopt Ordinance No. 793, an Ordinance of the Town Council of the Town of Fairfax amending Chapter 17.036, to update the Procedure for Directed Referrals by the Town Council.

#### **DISCUSSION**

At its May 6, 2015 meeting, the Town Council introduced and held the first reading by title only of Ordinance No. 793. Tonight is the second reading and adoption. If adopted, the ordinance will take effect 30 days after its passage.

The Ordinance primarily removes the requirement that a Councilmember identify the basis for the referral.

#### **ATTACHMENTS**

Ordinance No. 793

**ORDINANCE NO. 793**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
AMENDING TOWN CODE CHAPTER 17.036, TO UPDATE THE PROCEDURE FOR  
DIRECTED REFERRALS BY THE TOWN COUNCIL**

The Town Council of the Town of Fairfax does ordain as follows:

**SECTION 1:** Fairfax Town Code, Section 17.036.090, shall be revised to read as follows:

“§ 17.036.090 DIRECTED REFERRALS; PURPOSE.

(A) Sections 17.036.090 through 17.036.130 are established to permit the Town Council to assume jurisdiction on applications where action has been taken and is normally final at a lesser level of authority.

(B) These sections are intended to be used as an additional safeguard to avoid results inconsistent with the purposes of Title 17.”

**SECTION 2:** Fairfax Town Code, Section 17.036.100, shall be revised to read as follows:

“§ 17.036.100 DIRECTED REFERRALS; PROCEDURE.

In exercising the authority granted by §§ 17.036.090 through 17.036.130, a written directive, signed by at least one Council member, must be submitted to the Town Manager. The form shall be prescribed by the Town Clerk. No fee shall be required.”

**SECTION 3:** Fairfax Town Code, Section 17.036.120, shall be revised to read as follows:

“§ 17.036.120 DIRECTED REFERRALS; BASIS.

In directing that an action be referred to the Town Council, there shall be a presumption applied that the reason for the directive is that the action has significant and material effects on the quality of life within the Town. No inference of bias shall be presumed due to such a request for review being made by one or more Council members.”

**SECTION 4:** Fairfax Town Code, Section 17.036.130, shall be revised to read as follows:

“§ 17.036.130 DIRECTED REFERRALS; ACTION BY COUNCIL.

(A) Any action brought before the Town Council by the directed referral process is before the Council in a state of full review. The Council shall conduct a de novo hearing on the pending application. All alternatives available to the primary authority also are available to the Council such that approval, approval with conditions or denial action may be taken by the Council.

(B) Except as otherwise provided by law, a tie-vote of the Town Council shall be deemed a denial of the pending application.

**SECTION 5:** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Town Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

**SECTION 6: CEQA.** Pursuant to 14 California Code of Regulations § 15061(b)(3), this Ordinance is categorically exempt from the California Environmental Quality Act because the Town Council of the Town of Fairfax finds that there is no possibility that the implementation of this Ordinance will have significant effects on the environment.

**SECTION 7:** This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 6<sup>th</sup> day of May 2015, and duly adopted at the next regular meeting of the Town Council on the 3<sup>rd</sup> day of June 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Barbara Coler, Mayor

Attest:

\_\_\_\_\_  
Michele Gardner, Town Clerk

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Date