

**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO:	Fairfax Planning Commission
DATE:	September 25, 2014
FROM:	Jim Moore, Director of Planning and Building Services Linda Neal, Senior Planner Garrett Toy, Town Manager
ZONING:	Adopt a Resolution of the Fairfax Planning Commission Recommending the Fairfax Town Council Adopt Ordinance No. 785 Amending Chapter 17.064 ("Signs") Of the Fairfax Town Code
CEQA STATUS:	Exempt from CEQA per 14 C.C.R. § 15061(b) (3).

BACKGROUND

At its August 6, 2014 meeting, the Town Council discussed revisions to the sign ordinance that would allow political (i.e., campaign) signs to be posted more than 30 days prior to the election. The current Town code allows political signs to "be erected no sooner than 30 days before and shall be removed within seven days after the election of event" [see the attached Section 17.064.03 (E)]. The existing code section was last amended in 1989. As the Code was adopted prior to the wide-spread use of absentee or mail-in ballots, the Council was concerned that the 30-day sign limitation may completely miss the campaigning window. This could be important for future ballot measures such as Measure J (i.e., renewal of Measure I).

The Town Attorney indicated to the Council that this provision of the code is outdated and it is now illegal to have a restriction for only political signs. However, political signs can be considered under the broader category of "non-commercial" signs. This category would also apply to such signs as "sign-ups" for organized youth activities or protest signs on lawns.

The Council directed staff to prepare an amendment for consideration to address the 30 day limitation for non-commercial signs. As the Sign Chapter is contained under the Zoning Code, any amendments will require a recommendation by the Planning Commission prior to Council consideration.

DISCUSSION

The Town Attorney has prepared an ordinance which amends the code section (Section 17.064.030) addressing political signs with a "temporary non-commercial signs" provision:

"(E) Temporary noncommercial signs (including, but not limited to, political or ideological signs, holiday displays, and announcements for noncommercial public activities or events); with the owner's permission in all zones and when not over 24 inches by 48 inches; provided, however, that, the sign shall be erected

no sooner than 60 days before and shall be removed within seven days after the election or event; or if not concerning a particular event, then the sign may be posted for 67 days without a permit. Additionally, noncommercial signs are allowed in the same locations, in the same size, and for the same duration that commercial signs are allowed without a permit. Permanent noncommercial signs, and temporary signs exceeding the size limitations set forth in Section 17.064.030, are subject to Section 17.064.070.”

The Council did not discuss a specific duration for the signs, but mentioned 60 days as a seemingly reasonable period of time. The Commission may recommend a different duration. Similarly, the Council did not discuss a limit to the number of signs. The PC may want to discuss such a restriction. It should be noted that both requirements are subject to a reasonableness standard.

As the definition includes, but is not limited to, political signs, holiday displays, temporary posters, and event announcements, the Ordinance repeals Subdivisions (G) and (H) of Section 17.064.030.

The Ordinance amends Subdivision (B) of Section 17.064.070 of the Town Code regarding “Sign Permit; Requirements”:

(B) No sign permit shall be issued unless the sign conforms to the applicable criteria in § 17.064.140 or unless an exception is granted in accordance with §§ 17.064.100 through 17.064.130. Noncommercial signs are allowed in the same locations, in the same size and for the same duration that commercial signs are permitted.

The added provision is considered a best practice for such ordinances as it treats non-commercial signs the same as commercial signs.

The Ordinance also amends Section 17.064.140 “Design Criteria” by adding additional safety provisions for commercial and non-commercial signs:

§ 17.064.140 DESIGN CRITERIA.

- (E) The sign must be designed and installed in such a manner as to ensure adequate security and stabilization to minimize or eliminate risk of injury to persons and property.
- (2) All noncommercial signs must conform to the following criteria:
 - (A) The sign must be designed and installed in such a manner as to ensure adequate security and stabilization to minimize or eliminate risk of injury to persons and property.
 - (B) Lighting shall be installed so as not to cause glare to passing pedestrians or motorists.

RECOMMENDATION

- 1) Conduct public hearing
- 2) Adopt a Resolution of the Fairfax Planning Commission Recommending the Fairfax Town Council Adopt Ordinance No. 785 Amending Chapter 17.064 ("Signs") Of the Fairfax Town Code

ATTACHMENTS

Resolution

Ordinance No. 785

Current Town Code Sections 17.064.030 and 17.064.140

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RESOLUTION NO. 14- 14

Adopt a Resolution of the Fairfax Planning Commission Recommending the Fairfax Town Council Adopt Ordinance No. 785 Amending Chapter 17.064 (“Signs”) Of the Fairfax Town Code

WHEREAS, the Town of Fairfax regulates the display of signs within the Town through Chapter 17.064 (‘the sign ordinance) of the Town Code; and

WHEREAS, the Planning Commission has considered those certain proposed amendments to the Town’s sign ordinance as set forth in proposed Ordinance No.785, a true and correct copy of which is attached hereto as Exhibit A; and

WHEREAS, the Planning Commission considered proposed Ordinance No. 785 at a duly noticed public hearing on September 25th, 2014, at which time it received oral and documentary evidence related to the proposed ordinance; and

WHEREAS, the Planning Commission finds that the proposed Ordinance No. 785 is required for the public health, safety, and general welfare, and that such ordinance is consistent with the general objectives, policies, and programs of the General Plan.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The proposed Ordinance No. 785 has been assessed in accordance with the California Environmental Quality Act (“CEQA,” codified at Public Resources Code § 21000, et seq., and as further governed by the CEQA Guidelines, 14 C.C.R. § 15000, et seq.). The proposed Ordinance makes minor adjustments to the Town Code provisions related to the display of temporary noncommercial signs, and clarifies security and lighting requirements for signs. These modifications will not result in a substantial or potentially substantial adverse change in the environment. Therefore, the Planning Commission finds that it can be seen with certainty that the proposed Ordinance does not have the possibility to have a significant effect on the environment, and is therefore exempt from the environmental review requirements of CEQA per 14 C.C.R. § 15061(b)(3).

Section 2. The Planning Commission hereby finds that the proposed Ordinance is consistent with many General Plan policies, including, but not limited to Land Use Policy LU-1 (“Preserve scenic and natural resources”), as well as Goal LU-7 (“Preserve community and neighborhood character”) in that it applies selected design criteria to both commercial and noncommercial signs to the benefit of pedestrians and motorists alike.

Section 3. The Planning Commission thus hereby recommends that the Town Council adopt proposed Ordinance No. 785, substantially as set forth in Exhibit A.

The foregoing resolution was duly introduced and adopted on the ___th day of September, 2014,
by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Brannon Ketcham, Chairperson

James M. Moore, Secretary
Director of Planning and Building Services

ORDINANCE NO. 785

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 17.064 (“SIGNS”) OF THE TOWN CODE**

WHEREAS, the Town of Fairfax regulates the display of signs within the Town through Chapter 17.064 (“the sign ordinance”) of the Town Code; and

WHEREAS, the Town’s sign ordinance provides for the display of both commercial and noncommercial messages, and attends to concerns including, but not limited to, lighting and proper installation, in order to protect the public health, safety, and welfare; and

WHEREAS, the Town desires to increase the amount of time that temporary noncommercial signs and displays may be posted without a permit; and

WHEREAS, the Town likewise desires to clarify certain provisions within the sign ordinance as they pertain to lighting and security matters.

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION 1: Subdivision (E) of Section 17.064.030 of the Town Code is hereby amended to read as follows:

“(E) Temporary noncommercial signs (including, but not limited to, political or ideological signs, holiday displays, and announcements for noncommercial public activities or events); with the owner’s permission in all zones and when not over 24 inches by 48 inches; provided, however, that, the sign shall be erected no sooner than 60 days before and shall be removed within seven days after the election or event; or if not concerning a particular event, then the sign may be posted for 67 days without a permit. Additionally, noncommercial signs are allowed in the same locations, in the same size, and for the same duration that commercial signs are allowed without a permit. Permanent noncommercial signs, and temporary signs exceeding the size limitations set forth in Section 17.064.030, are subject to Section 17.064.070.”

SECTION 2: Subdivision (G) of Section 17.064.030 of the Town Code is hereby repealed, and shall read as follows:

“(G) Reserved.”

SECTION 3: Subdivision (H) of Section 17.064.030 of the Town Code is hereby repealed, and shall read as follows:

“(H) Reserved.”

SECTION 4: Subdivision (B) of Section 17.064.070 of the Town Code is hereby amended to read as follows:

“(B) No sign permit shall be issued unless the sign conforms to the applicable criteria in § 17.064.140 or unless an exception is granted in accordance with §§ 17.064.100 through 17.064.130. Noncommercial signs are allowed in the same locations, in the same size and for the same duration that commercial signs are permitted.”

SECTION 5: Section 17.064.140 of the Town Code is hereby amended to read as follows:

“§ 17.064.140 DESIGN CRITERIA.

(1) All commercial signs must conform to the following criteria.

(A) The sign must meet the purpose and intent of § 17.064.010 of this chapter.

(B) The sign may not be garish, excessively brilliant or otherwise inappropriate to the character or plans of the town.

(C) The sign must be architecturally a part of the design of the building rather than a feature independent of and in conflict with the design of the building.

(D) The color and material of any sign shall be compatible with the color and material of any wall on which a sign is painted or to which the sign is attached.

(E) The sign must be designed and installed in such a manner as to ensure adequate security and stabilization to minimize or eliminate risk of injury to persons and property.

(F) Lighting shall be installed so as not to cause glare to passing pedestrians or motorists.

(2) All noncommercial signs must conform to the following criteria:

(A) The sign must be designed and installed in such a manner as to ensure adequate security and stabilization to minimize or eliminate risk of injury to persons and property.

(B) Lighting shall be installed so as not to cause glare to passing pedestrians or motorists.”

SECTION 6: Severability. 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 anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7: CEQA. This Ordinance has been assessed in accordance with the California Environmental Quality Act (“CEQA,” codified at Public Resources Code § 21000, et seq., and as further governed by the CEQA Guidelines, 14 C.C.R. § 15000, et seq.). This Ordinance makes minor adjustments to the Town Code provisions related to the display of temporary noncommercial signs, and clarifies security and lighting requirements for signs. These modifications will not result in a substantial or potentially substantial adverse change in the environment. Therefore, this Ordinance does not have the possibility to have a significant effect on the environment, and is therefore exempt from the environmental review requirements of CEQA per 14 C.C.R. § 15061(b)(3).

SECTION 8: 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 __ day of _____, 2014, and duly adopted at the next regular meeting of the Town Council on the __ day of _____, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

David Weinssoff, Mayor

Attest:

Michele Gardner, Town Clerk

(surfaces back to back) shall be considered to have only one face.

(2) If any structural element which supports a sign is designed, painted or otherwise arranged so as to substantially contribute to the advertising qualities of the sign, the structural elements shall be included in the smallest rectangle used to compute the area of the sign.

(3) In the case where a name or design is applied directly to a wall the area shall be the smallest rectangle enclosing the name and/or design. In the case where a name or design is applied to an awning, the area shall also be the smallest rectangle enclosing the name and/or design.

AREA OF DOUBLE-FACED SIGN. The area of a sign in which the two faces are parallel and not more than two feet apart. In computing the area of a doublefaced sign, only one face of the sign shall be included.

BUILDING FACE. The general outer surface of a main exterior wall of a building. For example, a building whose plan is rectangular has four main exterior walls and four building faces.

BUILDING FRONTAGE. The portion of a building parallel and adjacent to a public street and serving as the main access to the building.

FREESTANDING SIGN. A sign which is self-supporting, standing on the ground in a fixed location and not attached to or projecting over any building or building projection. The signs may be supported from the ground by one or more uprights, poles or posts, with or without braces.

PROJECTING SIGN. Any sign, other than a wall sign, which is erected or supported by a building or roof and which projects outward or upward therefrom. Any sign under a marquee, porch, walkway covering or similar covering structure and in place generally perpendicular to the wall of the adjoining building shall be deemed to be a projecting sign.

SIGN. Any written, pictorial representation, symbol, insignia, banner, placement of lighting or any other feature of similar character, or whatever material, which is used to identify, announce, direct attention to or advertise which is erected on the ground or on any bush, tree, rock, wall, post, fence, building, structure, vehicle or in or on any place whatsoever and which is visible from outside a building.

WALL SIGN. Any sign posted, painted on, suspended from or otherwise affixed to or a part of the material of the exterior surface of any building or structure in an essentially flat position or with the exposed face of the sign in a place approximately parallel to the front of a canopy, porch or similar covering structure.

WINDOW SIGN. Any sign secured to the inside or outside of any window or otherwise located within any building as to be primarily visible from the exterior of any building through any window or door. (Prior Code, § 17.34.020) (Ord. 352, passed - -1973; Am. Ord. 488, passed - -1981; Am. Ord. 515, passed - -1983)

§ 17.064.030 SIGNS PERMITTED WITHOUT SIGN PERMIT.

The following signs are not to be included in the measurement of the total allowable area and may be erected without a permit:

(A) Nameplates and business information signs limited to name, occupation, and hours of operation, not exceeding one square foot in area, provided that they are not illuminated and contain no reflective paint or material, except gold leaf or silver leaf;

(B) Signs indicating credit cards honored, advertising stickers, trading stamps, hours of special operation or association memberships, provided that no individual sign exceeds one square foot in area and that the total area of all signs does not exceed three square feet;

(C) One sign indicating the price of gasoline which complies with the requirements of the State of California Business and Professions Code and which is no larger than 24 square feet;

(D) Real estate signs; provided, however, that, each parcel shall have no more than one sign, the sign shall not exceed three square feet in area, shall pertain only to the prospective sale or lease of the premises on which displayed and may display the name, address and telephone number of the owner, agent or lessor of the premises; provided further, that the real estate open house directional signs of similar dimensions may be located on premises other than that advertised for sale or lease between the hours of 1:00 p.m. and 4:00 p.m. on Sundays only;

(E) Political signs; one per candidate or ballot measure on improved property with the owner's permission in all zones and when not over 24 inches by 48 inches; provided, however, that, the sign shall be erected no sooner than 30 days before and shall be removed within seven days after the election or event; (The foregoing also applies to unimproved property provided that there is filed with the Planning Director the written approval of the property owner and a deposit in an amount determined by resolution of the Town Council, to be refunded upon removal of the sign.)

(F) Construction signs; one on a site to give information about what is being constructed not to exceed 16 square feet; (The signs shall not be erected prior to the commencement of construction and shall be removed before a final release on the construction is given by the Building Officer.)

(G) Holiday lights and displays not advertising any product or sale, provided that they are erected no sooner than 31 days before the holiday and are removed no later than five days after the holiday season;

(H) Temporary posters announcing public activities or events, no larger than four square feet in

area, to be permitted 15 days preceding the date of the event and removed two days after the event;

(I) Temporary window signs announcing specials, sales and/or hours of special operation.

(1) The signs may be of the following sizes:

<i>Store Frontage</i>	<i>Sign Size</i>
0 - 20 linear feet	Up to 6 square feet
0 - 30 linear feet	Up to 12 square feet
0 - 40 linear feet	Up to 18 square feet
0 - 40+ linear feet	1 square foot of signing per linear foot

(2) In all cases, the size of permitted signs shall not exceed 25 percent of the window area. Each sign so displayed shall be dated on the back of the sign and shall not be displayed for more than 15 days. There shall be at least eight days in any consecutive 30-day period, beginning the first of the month, where no temporary window signs shall be displayed. The lettering on read-a-boards will be considered as temporary signing under this section, but exempted from the time requirements stated above.

(J) Garage and yard sale signs located on private property when not exceeding two square feet in size, when posted and removed the day of the sale. (Prior Code, § 17.34.030) (Ord. 352, passed - -1973; Am. Ord. 488, passed - -1981; Am. Ord. 585, passed - -1989)

§ 17.064.040 SIGNS REQUIRING PERMIT AND STAFF APPROVAL BUT EXEMPTED FROM DESIGN REVIEW:

(A) *Temporary business identification signs.*

(1) A temporary business identification sign may be issued if an application for a permanent sign is pending.

a public hearing on the application at a regular or special meeting of the Planning Commission.

(C) The Planning Commission may approve or deny the application. Failure of the Planning Commission to act on an application shall constitute denial.

(D) (1) The Planning Commission may require such terms or conditions to the granting of the exception as it may deem necessary. Non-compliance with these terms or conditions shall be a cause of revocation.

(2) Revisions to the terms or conditions of a granted exception shall require a new application and fee.

(E) An application may be continued with the consent of the applicant, in writing, or recorded in the minutes of the meeting.

(F) The exception shall become effective upon issuance of the sign permit by staff.
(Prior Code, § 17.34.110) (Ord. 352, passed --1973; Am. Ord. 488, passed --1981; Am. Ord. 500, passed --1982; Am. Ord. 764, passed 2-1-2012)

§ 17.064.120 EXCEPTION; APPEAL FROM PLANNING COMMISSION DECISION.

(A) Within ten days following the date of a decision by the Planning Commission, an appeal to the Town Council from the decision may be filed with the Town Clerk by the applicant or any aggrieved person on a form prescribed by the Town Clerk.

(B) The appeal shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Planning Commission, or wherein the decision is not supported by the evidence in the record.

(C) In considering such an appeal, the Town Council shall determine whether the proposed use

conforms to the guidelines of § 17.064.140 and to any other applicable criteria, and may approve or disapprove the proposed design, or require such changes as are, in its judgment, necessary to accomplish the general purposes of this chapter.

(D) The determination of the Town Council shall be final.

(Prior Code, § 17.34.120) (Ord. 352, passed --1973; Am. Ord. 488, passed --1981; Am. Ord. 500, passed --1982; Am. Ord. 764, passed 2-1-2012)

§ 17.064.130 EXCEPTION; TERM; EXTENSION.

(A) All approvals granted by the Planning Commission under §§ 17.064.100 through 17.064.120 shall expire within six months unless acted upon by the issuance of a building permit or the erection of the approved sign.

(B) The Planning Commission may grant an extension of the expiration period by six months if it finds that the extension is necessitated by circumstances beyond the applicant's control.
(Prior Code, § 17.34.130) (Ord. 352, passed --1973; Am. Ord. 488, passed --1981; Am. Ord. 500, passed --1982; Am. Ord. 764, passed 2-1-2012)

§ 17.064.140 DESIGN CRITERIA.

All signs must conform to the following criteria.

(A) The sign must meet the purpose and intent of § 17.064.010 of this chapter.

(B) The sign may not be garish, excessively brilliant or otherwise inappropriate to the character or plans of the town.

(C) The sign must be architecturally a part of the design of the building rather than a feature independent of and in conflict with the design of the building.

(D) The color and material of any sign shall be compatible with the color and material of any wall on which a sign is painted or to which the sign is attached.

(E) Lighting shall be installed so as not to cause glare to passing pedestrians or motorists.
(Prior Code, § 17.34.140) (Ord. 352, passed --1973; Am. Ord. 488, passed --1981; Am. Ord. 500, passed --1982)

§ 17.064.150 NON-CONFORMING SIGNS.

(A) *One-year limitation.* Signs existing in the town prior to the date of enactment of the ordinance codified in this chapter, but prohibited herein may be continued in use without expansion or alteration for one year following the effective date of the ordinance codified in this chapter.

(B) *Elimination of non-conformity.* At the expiration of this period, the non-conforming signs shall be removed, changed so as to conform, approved as an exception under § 17.064.100 or abated.

(C) *Record of non-conforming signs.*

(1) Within three months of the effective date of adoption of the revised sign ordinance, the town shall compile a list of signs which, as of such date, do not conform to the provisions of this chapter.

(2) The town shall cause to be mailed to the owners of property on which non-conforming signs are located notice of the existence of the non-conforming signs and the time within which the same must be made to conform or abated.

(3) For purposes of the notification, the last known name and address of the owner of the property in question shall be used as shown upon the records of the county or the last equalized assessment roll of the town.

(4) Notification to the owner of the property shall be deemed to be notification to the owner of the sign in question. The mailing of the notice shall be done primarily as a convenience to the owner, and failure to give the notice, or of the owner to receive the same, shall, in no way, impair the effectiveness of the provisions of this section or the validity of any proceedings taken for the abatement of any such sign.

(D) *Abatement.*

(1) Non-conforming signs shall either be made to conform with the provisions of this chapter or abated within the applicable period of time hereinafter set forth. In the event they are not, the town shall order the same abated by the owner of the property and any other person known to be responsible for the maintenance of the sign.

(2) It shall thereafter be unlawful for any such person to maintain or suffer to be maintained any non-conforming sign on any property owned or controlled by him or her.

(E) *Alteration of non-conforming signs.* No non-conforming sign may be altered, reconstructed or moved without being made to comply in all respects with the provisions of this chapter.
(Prior Code, § 17.34.150) (Ord. 352, passed --1973; Am. Ord. 488, passed --1981)

§ 17.064.160 VIOLATIONS; NUISANCE DECLARATION.

(A) Any sign erected or maintained contrary to the provisions of this chapter is declared to be a public nuisance in accordance herewith.

(B) The staff may ask the Town Council to declare a sign a public nuisance if the sign has been abandoned, ceased to function or became dilapidated. The following defects will be considered in