STAFF REPORT FOR THE PLANNING COMMISSION MEETING OF MARCH 25, 2009

FILE NO: ZCA-09-012 AGENDA ITEM: H-3

STAFF AUTHOR: Lee Plemel, Planning Director

APPLICANT: Carson City Planning Division

SUBJECT: Action to recommend to the Board of Supervisors the approval of ZCA-09-012, a Zoning Code Amendment amending the Carson City Municipal Code Title 18 Appendix, Development Standards, Division 4, Signs, Section 4.4, Administration, to eliminate time limits for political signs and other matters properly related thereto.

RECOMMENDED MOTION: "I move to recommend to the Board of Supervisors the approval of ZCA-09-012, a Zoning Code Amendment amending the Carson City Municipal Code Title 18 Appendix, Development Standards, Division 4, Signs, Section 4.4, Administration, to eliminate time limits for political signs, based on the findings contained in the staff report."

DISCUSSION:

The current code provisions related to political signs addressed in this discussion are as follows:

- **4.4.7** Exemptions. The following signs are exempted from all other provisions of this Division except as noted.
 - f. Any sign denoting the name of any political campaign, charitable organization or religious institution, provided that:
 - (1) The area of such sign shall not exceed 32 square feet;
 - (2) The height of a freestanding sign shall not exceed eight feet;
 - (3) Political signs shall be removed by the candidate within 14 days after the election has been held;

The issue of removal of political campaign signs came to the attention of Planning Division staff after the 2008 General Election when several complaints were submitted to the Code Enforcement Division regarding political campaign signs remaining on private, residential properties after the election. (It should be noted that the complaints were for Presidential candidate signs, not local candidate signs.) Before acting on the complaints and writing citations for violations of the above code, Code Enforcement staff questioned the validity of the requirement based upon other recent determinations for "non-commercial" signs and asked Planning staff and the D.A.'s office for further direction.

The D.A.'s office researched several recent cases across the U.S. where time limits on political campaign signs were challenged under the "free speech" clause of the First Amendment of the U.S. Constitution. (See for example, Bell v. Baltimore County, 550. F.Supp.2d 590 (D.Md. 2008)). While time limits on political signs have not specifically been challenged in Nevada, the D.A.'s research showed that the time-limits on such signs have been struck down by courts elsewhere, when challenged. Based upon this, the D.A.'s office finds it likely that any challenge to the current Carson City code related to time limits on political campaign signs would result in the code provision being deemed unconstitutional.

It should be noted that other aspects of "non-commercial" signs can be regulated, such as sign size and height. The current code provisions have limitations on sign area and height that are proposed to remain in the code.

Staff does not foresee that the proposed code amendment will have a significant impact on the number of political campaign signs that remain on display. Generally, residents, businesses, candidates, and political party representatives are proactive in the removal of such signs within a reasonable period of time.

Furthermore, staff feels it is very important to be proactive to ensure that our sign code remains within the limits of Constitutional provisions. As many sign codes directly on this issue across the country have been struck down, it would seem prudent to fix this apparent small flaw in the current sign ordinance to prevent further legal issues in the future.

PUBLIC NOTIFICATION REQUIREMENTS: Public notices were published in the newspaper for the Zoning Code Amendment in accordance with the provisions of NRS and CCMC 18.02.045. As of March 17, 2009, no written comments have been received either in support or opposition of this application. Staff received one phone call from a resident wanting time limitations to stay in place, noting that candidate signs are "commercial" in nature because, if elected, they receive financial compensation. (The D.A. indicates that political candidate signs are not classified as commercial signs but as "non-commercial" signs.) Any comments that are received after this report is completed will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

OTHER CITY DEPARTMENT OR OUTSIDE AGENCY COMMENTS:

No written comments from other city department comments were received.

LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); 18.02.075 (Zoning Map Amendments and Zoning Code Amendments).

FINDINGS: Staff recommends the following findings for approval pursuant to the Carson City Municipal Code Section 18.02.075(5), Zoning Map Amendments and Zoning Code Amendments.

The Commission, in forwarding a recommendation to the Board for approval of a Zoning Code Amendment shall make the following findings of fact:

1. The proposed amendment is in substantial compliance with the goals, policies and action programs of the Master Plan.

Rationale: The proposed Zoning Code Amendment is in substantial compliance with the goals, policies and action programs of the Master Plan by complying with federal Constitutional requirements. Carson City cannot violate Constitutional provisions in its enforcement of regulations.

2. The proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.

Rationale: Political signs are a protected right under the U.S. Constitution.

3. The proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.

Rationale: The proposed amendments will have no impact on existing or planned public services or facilities.

Attachment:

1) Draft ordinance

Respectfully Submitted, PLANNING DIVISION

Lee Plemel, AICP Planning Director BILL NO. ___

ORDINANCE NO. 2009-___

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 18 APPENDIX – DEVELOPMENT STANDARDS, DIVISION 4, SIGNS, SECTION 4.4, ADMINISTRATION, TO ELIMINATE TIME LIMITS FOR POLITICAL SIGNS; AND OTHER MATTERS PROPERLY RELATED THERETO.

Fiscal effect: None

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

SECTION I:

That the Carson City Municipal Code Title 18 Appendix – Development Standards, Division 4, Signs, Section 4.4, Administration, is hereby amended, as follows (**bold, underlined text** is added, [stricken] text is deleted):

4.4 Administration.

4.4.1 <u>Permit Required.</u> It is unlawful for any person to erect, construct, enlarge, alter, or relocate within Carson City any sign or other advertising structure as defined in this Division or to install or alter any electrical wiring or fixture therein without first having obtained a permit from the Building Department of the Development Services Department.

Billboards or off-premise signs shall obtain a Special Use Permit approval and a business license for each sign.

- 4.4.2 <u>Application for Permit.</u> Application for sign permits shall be made at the Building Department on forms provided by Planning and Community Development and shall contain or have attached thereto the required information and material including:
 - a. Name, address and telephone numbers of the owner of the property;
 - b. Name, address and telephone numbers of the applicant (owner of sign);
 - c. Name, address and telephone numbers of sign contractor if required;
 - d. Location of building, structure and lot to which or upon which the sign or other advertising structure is to be attached or erected, and the lineal frontage of the building or suite which faces the street or shopping center's common parking area;
 - e. Three copies of plans showing:
 - (1) Position of sign or other advertising structure in relation to adjacent buildings or structures.

- (2) The design and size, type of materials to be used, structural details and the calculations, colors proposed, and proposed location on the premises of such sign or sign structure.
- (3) An exhibit showing or describing the size and dimensions of all existing and proposed signs on the premises at the time of making such application;
- f. An assessment of the valuation of the proposed sign(s) material and labor (installation).
- 4.4.3 Issuance of Permits. The Building Department and Planning and Community Development shall check the application, plans and specifications for sign permits. No permit shall be issued unless the plans and specifications have been reviewed and approved by all pertinent City departments as being in conformance with pertinent laws and ordinances under their jurisdiction. If the plans and specifications conform to the requirements of this Division and other pertinent laws and ordinances, and the specified fee has been paid, then the permit shall be issued. If it is determined from the application or from the inspection of the premises that signs or other advertising structures exist in excess of allowances, no permit shall be issued for any new sign or advertising structure which would increase the gross size or dimensional area of all signs or advertising structures beyond the allowable limits of this Division.
- 4.4.4 Inspection. Every sign erected in Carson City shall be subject to inspection by the Building Department for compliance with the latest adopted edition of the Building Code as currently adopted by Carson City. Signs incorporating electrical wiring shall use products and materials that are listed as defined in Section 2.03.260. All electric signs require inspection and approval of wiring and electrical fixtures before they may be connected to the electrical power source.
- 4.4.5 Schedule of Permit Fees. Fees for sign permits shall be based upon the fee schedule established by the Administrative Code as currently adopted by Carson City with annual adjustments on July 1, based upon the cost of living index per NRS 354.59.891.
- 4.4.6 Fee For Electrical Inspection. Fees for electrical inspection shall be based upon the fee schedule established by the Administrative Code as currently adopted by Carson City with annual adjustments on July 1, based upon the cost of living index per NRS 354.59.891.
- **4.4.7** Exemptions. The following signs are exempted from all other provisions of this Division except as noted.
 - a. Professional occupation signs denoting only the name, firm name and profession of an occupant in a commercial building, public institutional building or dwelling house when the area of such signs does not exceed two square feet for each professional occupant therein;

- Memorial signs or tablets, historical reference signs, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze or other incombustible material and permanently fastened to the building or structure;
- c. Identification nameplates or signs on apartment houses, rooming houses and trailer parks, public telephones and similar uses not exceeding four square feet in area;
- d. Bulletin boards not over 15 square feet in area for public charitable and religious institutions when such bulletin boards are located on the premises of said institutions;
- e. Community directory sign or community directional sign;
 - (1) Prior to the installation of any such structures, the location, size, height, width and general design shall have been approved by the Commission as being in conformance with the general purpose of this Division through Commission review procedure.
- f. Any sign denoting the name of any political campaign, charitable organization or religious institution, provided that:
 - (1) The area of such sign shall not exceed 32 square feet;
 - (2) The height of a freestanding sign shall not exceed eight feet;

[(3) Political signs shall be removed by the candidate within 14 days after the election has been held;]

- g. Off-site temporary signs and banners of a civic, charitable, educational, municipal or religious nature not to exceed a period of 30 consecutive days within any 90 day period; Planning and Community Development shall be notified by the applicant prior to installation of any such sign;
- h. Temporary promotional window signs on the interior of windows or temporarily painted on the outside of windows that provide information about a specific product, price, event, or activity;
- The changing of advertising copy of message on a reader board, theater marquee and/or similar sign, specifically designed for the use of replaceable copy;
- j. On-premise "open," "closed," "vacancy," or "no vacancy" signs not exceeding four square feet in area;
- Directional signs which do not exceed three feet in overall height and two square feet in sign area;
- I. Garage sales. Temporary signs for a noncommercial garage sale, provided that they are removed within 24 hours of the end of the sale

date by the individuals conducting the sale. Such signs shall not be placed on traffic control signs or utility poles;

- m. On-premise real property signs (including future tenants, "for sale," "for rent," "open house,"etc.) are permitted subject to the following conditions:
 - (1) Parcels of five acres or more in any land use district may have signs which do not exceed 32 square feet of total surface area.
 - (2) Parcels of less than five acres may have signs which do not exceed six square feet in residential districts, or 20 square feet in nonresidential districts.
 - (3) Signs shall not exceed eight feet in height above average ground level.
 - (4) Not more than one sign shall be allowed on each parcel of land. If the property is located on two street frontages, one sign is permitted on each street frontage. One additional onsite "open house" sign per street frontage is permitted during open house events described in subparagraph (5), below. Onsite signs may include flags, streamers, balloons or similar devices during such events.
 - (5) In addition to the on-premise signs permitted above, offpremise "open house" signs may be placed subject to the following conditions:
 - (a) The signs must be for a designated open house that is listed for sale or lease.
 - (b) The overall height of a sign must not exceed 36 inches from the ground to the top of the sign, and the sign area must not have a horizontal dimension of more than 24 inches and a vertical dimension of more than 18 inches.
 - (c) Signs shall have no riders with the exception of the listing agent's name and/or firm's name; no additions, tags, streamers, balloons or other appurtenances may be added to the sign. Directional arrows may be incorporated into the permitted sign face area but may not be added appurtenant to the sign.
 - (d) No more than three off-premise open house signs shall be allowed per open house. Additional off-premise signs are allowed upon prior approval of the Planning Director or his designee if the open house is more than one mile (closest travel distance) from an arterial street as designated in the City's Transportation Master Plan.

- (e) Signs may be displayed on the day of the open house from 8:00 a.m. to 6:00 p.m. while the home is open to the public and shall be removed by 6:00 p.m. or when the open house is closed, whichever comes first.
- (f) No sign shall be placed on public property including State right-of-way. A sign may be placed within City right-of-way behind the curb and sidewalk but may not be placed on a sidewalk, in a street, on or within a median strip, traffic island or center roadway divider, or within a traffic safety site area. Signs shall not be attached to trees, utility poles or traffic control devices.
- (g) No more than two different open house signs may be placed at a single street intersection, with preference given to the first two legal signs placed at the intersection.
- n. Construction signs are permitted subject to the following conditions:
 - (1) In nonresidential zones: one sign advertising the various construction trades on any construction site. Such signs shall not exceed 100 square feet in area, shall not be installed prior to the start of construction, and shall be removed before occupancy of the site.
 - (2) In agricultural and residential zones: one sign advertising the various construction trades on any construction site. Such signs shall not exceed 32 square feet in area, shall not be installed prior to the start of construction, and shall be removed before occupancy.
- o. Replacement of sign panels which do not involve the electrical or structural modification of an existing sign structure.
- p. Pennants located on private property. The following specific standards shall apply to all pennants:
 - (1) The maximum collective length of such advertising devices across the subject parcel shall not exceed three times the width of the parcel facing a public right-of-way.
 - (2) Each individual pennant shall not exceed 18 inches in length.
 - (3) Strings of pennants shall not exceed the height of any buildings on the subject site, if no buildings are present, the maximum height shall be 20 feet. Pennants shall be maintained in good condition.

- q. Inflatable devices located on private property providing such devices are not used for a period in excess of three consecutive days within any calendar month and provided that the maximum height of such devices shall not exceed the height of any buildings on the subject site or 20 feet, whichever is less. Inflatable devices shall be anchored securely and shall not interfere with pedestrian access, vehicular traffic movements, or traffic control devices.
- r. Balloons located on private property provided that the maximum height of such devices shall not exceed the height of any buildings on the subject site or 20 feet, whichever is less. Balloons shall be anchored securely and shall not interfere with pedestrian access, vehicular traffic movements, or traffic control devices, and shall be maintained in good condition.
- s. Banners located on private property. The following specific standards shall apply to all banners:
 - (1) One banner per building elevation per unit of operation or business is allowed, with a maximum of two banners per business.
 - (2) Banners for businesses with less than 10,000 square feet of gross floor area shall not exceed 50 square feet. An additional 25 square feet of banner area is permitted per 20,000 square feet of gross floor area over 10,000 square feet up to a maximum banner area of 200 square feet.
 - (3) Banners shall be securely attached to the primary structure, or permitted freestanding sign or other temporary structure. No banners shall be affixed to trees, shrubs, traffic control signs or support structures, utility poles, or any structure within the public right-of-way.
 - (4) Any banner may also be allowed subject to the provisions of Section 4.5.8, Changeable Promotional Signs.
 - (5) Notwithstanding the provisions above, a new business may utilize banners not exceeding 100 square feet in size for up to 90 consecutive days upon the opening of the business unless additional banner area is permitted per the above provisions.
- t. Changeable promotional flags located on private property provided such flags are not used for a period in excess of 30 consecutive days within any 90 day period. Any flag maintained in excess of 30 days may be allowed subject to the following standards:
 - (1) One flag per building elevation, a maximum of two flags per site.
 - (2) Flags shall not exceed a total size of 10 square feet.

- (3) Flags shall be securely attached to the primary structure. No freestanding flags are permitted.
- (4) Any flag displayed above a pedestrian area shall be maintained so that its lowest point is no less than eight feet above the pedestrian ground surface.
- u. Signs within NDOT right-of-way in compliance with state sign regulations.
- v. Official flags flown in accordance with protocol established by the United States Congress; and corporate flags that may contain a business logo when flown on a flagpole with an official flag, provided that the corporate flag does not exceed 48 square feet or the size of the official flag, whichever is less.
- **4.4.8** <u>Duty to Enforce.</u> It is the duty of the Building Department and Planning and Community Development to enforce all of the provisions of this Division.
- 4.4.9 <u>Interference With Enforcement.</u> It is unlawful to interfere with the building inspector or compliance officer in the performance of their duties and enforcement of this Division.
- 4.4.10 <u>Compliance With Ordinance-Nuisance-Abatement.</u> The Board hereby determines that the public peace, safety, morals, health and welfare require that all signs and advertising structures heretofore constructed or erected are hereby made subject to the provisions of this Division, and shall conform to this Division. Any new sign not in compliance shall be deemed a public nuisance and must be removed and abated in the manner provided by the law.
- 4.4.11 <u>Illegal Signs.</u> Any sign erected in violation of laws in effect at time of erection is an illegal sign and shall be removed immediately by the responsible persons upon notification.
- 4.4.12 Exception—Official Signs, Safety Signs, "OSHA" Requirements. Nothing contained in this Division shall prevent the erection, construction and maintenance of official traffic safety, fire and police signs, signals, devices and markings of the Nevada Department of Transportation (NDOT), the Board or other competent public authorities, nor the posting of notices required by law. Similarly, on-premise regulation signs and signs necessary for the safety of those members of the public using said premises, whether said signs are officially or privately erected, are not subject to the provisions of this Division.
- 4.4.13 Non-Conforming Signs. All non-conforming signs will be removed from the premises or brought into conformance with the requirements of this Division upon the expansion of an existing building which exceeds 20% of the gross floor area of the existing building or 1,000 square feet, whichever is greater, or upon replacement, damage or destruction of the sign structure that exceed 50% of the total sign valuation (replacement cost), or upon a change in the design of the sign display area, including a change in size, shape or

proportions, unless the non-conforming sign is approved by special use permit.

4.4.14 Appeal to Commission.

- a. Appeals. Any person aggrieved by the denial of:
 - (1) Issuance of a building permit, or
 - (2) Any other decision of an administrative officer under the authority of this Division, or any officer or agency of Carson City, may appeal from such denial, issuance or decision to the Commission.
- b. Filing. An appeal may be made within 10 calendar days after the denial or issuance of the permit or the rendering of the decision by filing a written statement of the reasons why the denial, issuance or decision is erroneous
- c. Hearing. The Commission shall hear the appeal and render a decision within 60 calendar days after the filing of the statement of reasons. The Commission shall give 10 calendar days written notice of the date, time and place of the hearing to the applicant and parties involved in the application. The Commission may uphold or modify the administrative officer's decision.
- d. Appeals of the Commission's decision shall be made to the Board within 10 calendar days after the decision.
- e. Anyone desiring to appeal to a court of law after the final decision of the Board shall do so in the manner provided by and in accordance with state law.

4.4.15 Penalty For Violations.

- a. Any person, firm or corporation, whether as principal, agent, employee, or other-wise, violating any provision of this Division or violating or failing to comply with any order or regulation made hereunder is guilty of a misdemeanor, and upon conviction thereof shall be punished by the penalty prescribed in Section 1.08.010 of the Carson City Municipal Code.
- b. Such person, firm or corporation may be deemed guilty of a separate offense for each and every day during which such violation of this Division or failure to comply with any order or regulation is committed, continued or otherwise maintained.
- 4.4.16 <u>Maintenance</u>. All signs shall be maintained by the responsible party in good order and repair at all times and shall be kept free of peeling paint, faded materials, major cracks, tear and/or dangling materials. All canister type signs missing a sign panel insert shall be placed with a blank insert within 30 days of notification.

4.4.17 Construction and Safety.

- a. All signs requiring a permit in Carson City shall be regulated by the Sign Code as currently adopted by Carson City and any other applicable building, electrical and fire prevention codes as adopted by the Board and administered by the Building Department.
- b. If a permit is not required, signs shall be safely erected and maintained as specified by the Sign Code as currently adopted by Carson City and any other applicable building, electrical and fire prevention codes as adopted by the Board and administered by the Building Department.

SECTION II:

That no other provisions of Title 18 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on	, 2009.
PROPOSED BY Supervisor _	
PASSED	, 2009.
VOTE:	
AYES:	
NAYS:	
ABSENT:	

	ROBERT L. CROWELL, Mayor	
ATTEST:		
ALAN GLOVER, Clerk-Recorder		
This ordinance shall be in force and effe of the year 2009.	ect from and after the	day of the month of

March 2, 2009

Mr. Lee Plemel

Re: Political Sign Coverage

Dear Mr. Plemel:

My wife and I discussed this situation after she called you yesterday and decided to forward the following letter to you which we hope you will forward to someone at the District Attorney office. This sort of thing can turn into a can of worms.

Fhanks,

Bill Miller



RILVIKO

March 2, 2009 Mr. Lee Plemel Carson City Planning Division 2621 N. Gatelane No. 62 Carson City, NV 89706

Gentlemen:

I read with interest in the Nevada Appeal that removing the election signs might be considered by some people as a violation of freedom of speech. What about the violation of leaving rubbish along the road or highways that becomes not only an eyesore but a of leaving around and striking someone traveling along the roadfronts or flying thru someone's window. This whole area is an area of unbelievable wind which card board, particle board, tin signs, wooden stakes or metal stakes can become dangerous projectiles. Nobody is going to sue McCain or Obama if that happens but they will sue the City or County for damages and an argument could be made there should have been a reasonable time for removal. Allowing these signs to decay is a matter of public safety and environmental attractiveness.

More than that, since it is an advertisement for a Public position, whether it be President of the United States or any other public paid job, it is in the end, an advertisement for a job. Just because it happens to be a government job should not mean the person or group responsible for the signage should not also be responsible for its removal. If a politician who is seeking a paid job has a right to leave their sign up forever then why couldn't any one put up a sign advertising for a job and just leave it there forever. We the people pay the salaries of all government/state/county employees. I don't believe this includes the right of candidates to have years of unlimited advertising to keep their name out there. Then maybe I have the right to stick up a sign anywhere for my business and leave it there for eternity? Should they die, do we leave it up there for some sort of memorial? Heck, let's all put up whatever sign we want!!!! And leave them forever.

In any society, you have to have rules of limitations for your citizens such as not throwing litter out a window, or leaving your garbage bags anywhere you want. What is the difference in a sign, which eventually deteriorates into liter? It is just garbage.

The group putting up the signs should also have a sign committee to remove the signs. If a local politician leaves his sign up over an extended period of time, I do not care who he is, it shows me he is careless and lazy and will not get my vote the next election and he/she/they should be fined. I can assure you that many voters feel the same as I do.

This is ludicrous.

775-887-1299

Sincerely.

MAR 0.3 2009

CARSON CITY
PLANNING DIVISION