



TOWN OF FAIRFAX

STAFF REPORT

May 2, 2018

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Introduce and read by title only an Ordinance Amending Title 6 ("Animals") of the Town Code to adopt by reference the recently amended Marin County animal control ordinance and revised fee schedule. Not subject to CEQA, CEQA Guidelines Sections 15060(c)(3) and 15061(b)(3)

RECOMMENDATION

Introduce, waive first reading and read by title only:

An Ordinance of the Town Council of the Town of Fairfax Adopting and Amending Sections 6.04.010, 6.04.020, 6.04.037 And 6.040.041 of the Fairfax Municipal Code to Adopt By Reference the Marin County Ordinance Entitled "Ordinance No. 3687 Ordinance of the Marin County Board of Supervisors Amending Animal Control Ordinance, Chapter 8.04 of Title 8" and to Adopt By Reference the Marin County Ordinance Entitled "Ordinance No. 3688 an Uncodified Ordinance of the Marin County Board of Supervisors Establishing a Fee Schedule for Services Provided under Marin County Code Title 8, Chapter 8.04" and Adopting Penalties Therefor.

DISCUSSION

Town Code adopts the Marin County Code pertaining to animal control, including the County's fee schedule for animal control services. As a result, any revisions to the County's code and fee schedule requires an amendment to Town Code. This ordinance adopts the April 2018 amendments to the County's animal control ordinance and fee schedule. It should be noted that the fees are pass-through fees to the Marin Humane Society (MH). MH has confirmed that the proposed fee increases do not exceed the cost of providing the associated services. The last such fee increase was in 2012. As a minor clean-up in the Town Code, we eliminated the exception which allowed up to six ostriches to be housed within town.

Marin County and all Marin cities and towns provide animal services through a joint powers agreement. The cost of services is shared 30% by the County, with 70% apportioned among the member cities and towns. The County contracts with the Marin Humane Society to provide animal services on behalf of all jurisdictions. A new three-year agreement with Marin Humane Society was negotiated and approved by the County Board of Supervisors at their March 2018 meeting.

Attached are the County of Marin staff reports detailing the ordinance revisions and changes to the fee schedule. The County ordinance only goes into effect once all member cities and towns of the Marin Animal Services JPA adopt the ordinance to ensure uniform MH enforcement countywide.

ATTACHMENTS

- A. Ordinance
- B. Marin County staff reports and adopted ordinance establishing a fee schedule

AGENDA ITEM # 11

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ADOPTING AND AMENDING SECTIONS 6.04.010, 6.04.020, 6.04.037 AND 6.040.041
OF THE FAIRFAX MUNICIPAL CODE TO ADOPT BY REFERENCE THE MARIN COUNTY
ORDINANCE ENTITLED “ORDINANCE NO. 3687 ORDINANCE OF THE MARIN COUNTY
BOARD OF SUPERVISORS AMENDING ANIMAL CONTROL ORDINANCE,
CHAPTER 8.04 OF TITLE 8” AND TO ADOPT BY REFERENCE
THE MARIN COUNTY ORDINANCE ENTITLED “ORDINANCE NO. 3688 AN UNCODIFIED
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS ESTABLISHING A
FEE SCHEDULE FOR SERVICES PROVIDED UNDER MARIN COUNTY CODE TITLE 8,
CHAPTER 8.04” AND ADOPTING PENALTIES THEREFOR**

WHEREAS, California Government Code section 51301 authorizes cities to contract with the county to perform city functions, and California Government Code section 50022.9 permits cities to adopt county ordinances by reference; and

WHEREAS, Marin County and all Marin’s cities and towns provide animal services through a joint powers agreement; and

WHEREAS, Marin County contracts with Marin Humane to provide animal services on behalf of all jurisdictions, including the Town of Fairfax; and

WHEREAS, Marin County is recognized as a leader in promulgating ordinances that protect animals from cruelty, neglect and abuse in addition to encouraging responsible guardianship; and

WHEREAS, the Town must adopt the County’s ordinances relating to animal services pursuant to the joint powers agreement; and

WHEREAS, the Town wishes to adopt the County’s current animal control regulations.

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

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Section 6.04.010 of the Fairfax Municipal Code is hereby amended and restated to read in its entirety as follows:

§ 6.04.010 COUNTY CODE ADOPTED INCLUDING AMENDMENTS.

(A) (1) Pursuant to Cal. Gov't Code § 50022.9, the Marin County animal control regulations set forth in Title 8 of the Marin County Code as Chapters 8.04, 8.08 and 8.12, including all revisions and amendments thereto adopted by the Marin County Board of Supervisors as of April 10, 2018, are adopted by reference and shall be in force and effect within the town.

(2) Wherever the term “Sheriff” is used in the foregoing Marin County animal control regulations the same shall be deemed to refer to the Police Chief of the Town of Fairfax or his or her designated representative.

Section 3. Section 6.04.020 of the Fairfax Municipal Code is hereby amended and restated to read in its entirety as follows:

§ 6.04.020 VIOLATION; PENALTY.

(A) Any person violating within the town any of the provisions of §§ Section 8.04.179, 8.04.180, 8.04.181, 8.04.225, 8.04.230, 8.04.240, 8.04.245, 8.04.246 , 8.08.010, 8.08.020, 8.12.010 or 8.12.020 of the Marin County Code is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$500, by imprisonment not exceeding six months or by both the fine and imprisonment. Any person who boards, has, keeps, maintains or has in his or her possession or control, for any length of time, any wild and/or undomesticated animal in violation of any of the provisions of §§ 8.04.182 through 8.04.184 of Chapter 8.04 of the Marin County Code shall be guilty of a misdemeanor and shall be subject to imprisonment in the county jail for not more than six months or a fine not to exceed \$1,000 or both.

(B) Any person violating within the town any other provisions of Title 8 of the Marin County Code is guilty of an infraction and, upon conviction thereof, shall be punished by a fine not exceeding \$100 for a first violation, a fine not exceeding \$200 for a second violation within one year and a fine not exceeding \$500 for each additional violation within one year.

Section 4. Section 6.04.037 of the Fairfax Municipal Code is hereby adopted to read in its entirety as follows:

§ 6.04.037 AMENDMENTS; COUNTY'S ORD. 3687.

Pursuant to Cal. Gov't Code § 50022.9, the amendments to the Marin County Code pertaining to animal control, which amendments are contained in Ord. 3687, adopted on April 10, 2018, by the Marin County Board of Supervisors, with the exceptions of those portions of said county ordinances referring to penalties, are adopted by reference and shall be in force and effect within the town.

Section 5. Section 6.04.041 of the Fairfax Municipal Code is hereby adopted to read in its entirety as follows:

§ 6.04.041 AMENDMENTS; REVISED ANIMAL CONTROL FEE SCHEDULE COUNTY'S ORD. NO. 3688.

Pursuant to Cal. Gov't Code § 50022.9, the amendments to the Marin County Code adopting a revised animal control ordinance fee schedule, which amendments are contained in Ord. No. 3688, adopted on April 10, 2018, by the Marin County Board of Supervisors, are adopted by reference and shall be in force and effect within the town.

Section 6. **CEQA.** The Town Council hereby determines that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, and pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that it will not have a significant effect or physical change to the environment. The Ordinance amends the Fairfax Municipal Code to adopt by reference the County’s animal services ordinances.

Section 7. **Severability.** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Section 8. **Effective Date and Posting.** 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; and 3. Bulletin Board, Fairfax Women’s Club.

The foregoing Ordinance was introduced at a regular meeting of the Fairfax Town Council on the 2nd day of May 2018, and duly adopted at the regular meeting of the Town Council on the ____ day of _____, 2018, by the following vote, to wit:

AYES:

NOES:

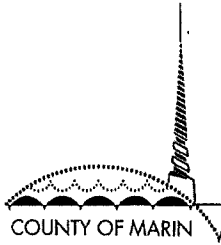
ABSENT:

ABSTAIN:

Peter Lacques, Mayor

ATTEST:

Michele Gardner, Town Clerk



OFFICE OF THE
COUNTY ADMINISTRATOR

March 27, 2018

Matthew H. Hymel
COUNTY ADMINISTRATOR

Daniel Eilerman
ASSISTANT COUNTY
ADMINISTRATOR

Angela Nicholson
ASSISTANT COUNTY
ADMINISTRATOR

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Summary of Recommended Animal Control Ordinance (Section 8) Changes

Dear Board Members:

RECOMMENDATION:

- 1) Consider proposed revisions to the Animal Control Ordinance, Chapter 8.04 of Title 8 of the Marin County Code

SUMMARY:

Animal Control Ordinance, Chapter 8.04 of Title 8 Proposed Changes

Marin County is recognized as a leader in promulgating ordinances that protect animals from cruelty, neglect and abuse in addition to encouraging responsible pet guardianship. Historically during negotiations with Marin Humane (MH), the parties discuss any needed or desired changes to the Animal Control Ordinance in the Marin County Code to further these values or to clarify language in the Ordinance.

The recommended changes are noted in the attached Draft Ordinance. The following is a summary of the proposed changes:

- **8.04.181; Potentially dangerous and vicious dogs** – The change in this section is required in order to be consistent with a recent change in State law. The revision removes dogs that were identified in convicted dog fighting cases as automatically being defined as "dangerous" without a hearing. MH advises that this has never been at issue in Marin previously, but the technical change is recommended to be consistent with State law.
- **8.04.040 and 8.04.050; Rabies vaccinations - Veterinarian reporting requirements** – There are a couple of changes proposed in this Section. The first would give veterinary hospitals and clinics additional time, increasing the deadline from 10 days to 30 days, to comply with rabies vaccine reporting requirements. The extended period may help increase compliance among Marin County veterinary clinics and hospitals.

Another proposed change to 8.04.050 would establish home bite quarantine fees as part of the County's general fee schedule. This is recommended as a cleanup item to be consistent with how other County fees are managed.

Marin County Civic Center
3501 Civic Center Drive
Suite 325
San Rafael, CA 94903
415 473 6358 T
415 473 4104 F
CRS Dial 711
www.marincounty.org/cao

ATTACHMENT B

- **8.04.182 – 8.04.184; and 8.04.230; Exotic Animals** – There is a growing national trend to not use exotic animals for entertainment and education. The

changes proposed by MH expand the list of prohibited wild and undomesticated animals allowed to be kept in Marin, as well as limiting those organizations that can exhibit exotic animals. The purpose of the changes includes the protection of public health and safety, protecting and recognizing the unique needs wild or exotic animals have, reducing inhumane training techniques, and decreasing the amount of administrative effort it takes to research and enforce specialized permit applications. The recommended changes will have no effect upon organizations qualified to handle wildlife, for instance the Marine Mammal Center in West Marin.

If adopted by the Board, the ordinance would only go into effect once all member cities and towns of the Marin Animal Services JPA adopt the ordinance in their jurisdictions to ensure uniform MH enforcement countywide.

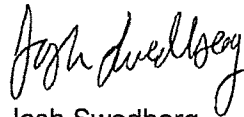
FISCAL IMPACT:

There are no additional costs for the administration or enforcement of this ordinance, and we anticipate no or minimal impact on any businesses located in Marin.

Marin City and Town Managers were presented a summary of the tentative contract, ordinance changes, and fee increases at its meeting of January 25, 2018 and are in agreement with the proposal as recommend.

Please let me know if you have any questions or concerns.

Sincerely,



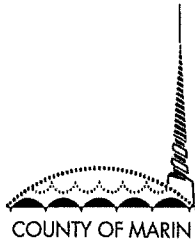
Josh Swedberg
Management & Budget Analyst

Reviewed by,



Matthew Hymel
County Administrator

cc: City/Town Managers
Marin Humane Society
Marin General Services Authority



OFFICE OF THE
COUNTY ADMINISTRATOR

March 27, 2018

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Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Conduct a first reading of proposed Animal Control ordinance fee increases

Dear Board Members:

RECOMMENDATION:

- 1) Conduct a first reading, by title only, of proposed revisions to the Animal Control Ordinance, Chapter 8.04 of Title 8, of the Marin County Code

SUMMARY:

The County Administrator's Office is proposing a first reading of a revised Animal Control Ordinance (Title 8 of the Marin County Code) fee schedule. In the Winter of 2018, as part of ongoing contract discussions, Marin Humane conducted a survey of neighboring jurisdictions such as Sonoma, San Mateo, San Francisco, Napa and Contra Costa Counties and determined that increases to Marin's fee schedule are both appropriate and consistent with these jurisdictions. Marin Humane has confirmed that the proposed fee increases do not exceed the cost of providing the associated services. Finally, City/Town Managers were presented with revised information on January 25, 2018 and are in agreement with the proposed changes.

The last Animal Control fee increase occurred in 2012.

FISCAL IMPACT:

Once adopted by all members of the Animal Control J.P.A., the anticipated annual revenue increase is estimated to be approximately \$32,000 over the budgeted \$300,000 in license fees, with roughly \$12,800 for member jurisdictions per the revenue sharing agreement in the new contract.

Please let me know if you have any questions or concerns.

Sincerely,


Josh Swedberg
Management & Budget Analyst

Reviewed by,


Matthew Hymel
County Administrator

cc: City/Town Managers
Marin Humane Society
Marin General Services Authority

ORDINANCE NO. 3688
AN UNCODIFIED ORDINANCE OF THE MARIN COUNTY BOARD OF
SUPERVISORS ESTABLISHING A FEE SCHEDULE FOR SERVICES PROVIDED
UNDER MARIN COUNTY CODE TITLE 8, CHAPTER 8.04 AND REPEALING
UNCODIFIED ORDINANCE NO. 3582

The Board of Supervisors of the County of Marin hereby finds and declares the following:

SECTION 1: FINDINGS

WHEREAS, Marin County and all Marin's cities and towns provide animal services through a joint powers agreement; and

WHEREAS, pursuant to the Joint Powers Agreement, Marin County agreed to provide animal control services to all jurisdictions; and

WHEREAS, Marin County contracts with Marin Humane to provide animal services on behalf of all jurisdictions; and

WHEREAS, pursuant to the Joint Powers Agreement, Marin County, through the Board of Supervisors, has the sole discretion to establish all fees related to the animal control program throughout the County; and

WHEREAS, pursuant to the Joint Powers Agreement, Marin County, through the Board of Supervisors, has the authority to advise the judiciary as to fines and forfeitures related to violations of the animal control ordinances throughout all jurisdictions; and

WHEREAS, Government Code section 54985 (a) grants the Board of Supervisors the authority to increase a fee by the amount reasonably necessary to recover the actual cost of providing the service, if the fee is already established by statute or ordinance, and is not otherwise limited by the same; and

WHEREAS, notice of the Public Hearing was provided to the local newspaper 10 days in advance, as required by the Joint Powers Agreement; and

WHEREAS, in December 2017, Marin Humane staff conducted a survey of neighboring counties such as San Mateo, San Francisco, Contra Costa, and Alameda, and determined that increases to Marin's fee schedules are both appropriate and consistent with these other jurisdictions; and

WHEREAS, Marin Humane has confirmed that the proposed fee increases do not exceed the cost of providing the associated services; and

WHEREAS, the last fee increase was in 2012; and

WHEREAS, all cost pass-through policies, delinquent charges and discount policies are intended to continue unchanged and will remain in full force and effect prior to ordinance adoption as well as thereafter.

THE MARIN COUNTY BOARD OF SUPERVISORS HEREBY ORDAINS AS FOLLOWS:

SECTION II: Ordinance No. 3582 is hereby repealed.

SECTION III: A new uncodified ordinance is hereby enacted to read as follows:

Fee Category	[Existing Fee]	New Fee*
DOG LICENSE FEES ESTABLISHED UNDER 8.04.060:		
<u>Sterilized Dog</u>		
For a one year license	[\$19.00]	\$20
For a two year license	[\$26.00]	\$30
For a three year license	[\$35.00]	\$40
<u>Unsterilized Dog</u>		
For a one year license	[\$50.00]	\$60
For a two year license	[\$59.00]	\$70
For a three year license	[\$80.00]	\$90
DELINQUENT DOG LICENSE FEE ESTABLISHED UNDER 8.04.070:		
Sterilized Dog	[\$50.00]	\$55
Unsterilized Dog	[\$50.00]	\$60
DUPLICATE LICENSE TAG FEE ESTABLISHED UNDER 8.04.080		
	[\$10.00]	\$15
REDEMPTION FEES (IMPOUND FEES) ESTABLISHED UNDER 8.04.140 AND 8.04.150:		
<u>Sterilized Animal</u>		
First impoundment during a 12 month period	[\$65.00]	same
Second impoundment during a 12 month period	[\$90.00]	same
Third impoundment during a 12 month period	[\$110.00]	\$125
Fourth impoundment during a 12 month period	[\$150.00]	\$160
Subsequent impoundment during a 12 month period	[\$230.00]	\$250
<u>Unsterilized Animal</u>		
First impoundment during a 12 month period	[\$95.00]	\$120
Second impoundment during a 12 month period	[\$145.00]	\$165
Third impoundment during a 12 month period	[\$165.00]	\$180
Fourth impoundment during a 12 month period	[\$200.00]	\$225
Subsequent impoundment during a 12 month period	[\$260.00]	\$290

DEAD DOD, CAT AND SMALL HOUSEHOLD PET REMOVAL FEES ESTABLISHED UNDER 8.04.195:	[\$75.00]	same
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DEAD WILDLIFE REMOVAL FEES ESTABLISHED UNDER
8.04.195:

For removal & disposition of dead wildlife under 50 lbs	[\$75.00†]	same
For removal & disposition of dead wildlife 50 lbs & over	[\$125.00†]	same

BOARDING FEES FOR QUARANTINED OR IMPOUNDED
ANIMALS ESTABLISHED UNDER 8.04.050 AND 8.04.150:

Sterilized Animals

Charge for boarding a sterilized dog per day	[\$22.00]	same
Charge for quarantining a sterilized dog per day	[\$35.00]	same
Charge for boarding a sterilized cat per day	[\$14.00]	same
Charge for quarantining a sterilized cat per day	[\$30.00]	same

Unsterilized Animals

Charge for boarding an unsterilized dog per day	[\$35.00]	\$40.00
Charge for quarantining an unsterilized dog per day	[\$40.00]	\$50.00
Charge for boarding an unsterilized cat per day	[\$21.00]	\$25.00
Charge for quarantining an unsterilized cat per day	[\$37.00]	\$40.00

CONFINEMENT AND QUARANTINE FEE FOR ANIMALS
UNDER HOME QUARANTINE ESTABLISHED UNDER

8.04.050:	[\$30.00]	same
Charge for home quarantine of animal		

POTENTIALLY DANGEROUS/VICIOUS DOG PERMITS
ESTABLISHED UNDER 8.04.181:

Potentially Dangerous the charge for annual record keeping Pursuant to 8.04.181(e)(15)(i)	[\$250.00]	same
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Vicious Dog the charge for annual record keeping pursuant to 8.04.181(e)(16)(i)	[\$500.00]	same
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HOBBYIST & RANCH DOG FEES ESTABLISHED UNDER
8.04.245 & 8.04.246:

Dog Hobbyist Permit the charge for issuance of each dog hobbyist Permit	[\$250.00]	same
Ranch Dog Permit the charge for issuance of each ranch dog permit	[\$250.00]	same

The issuance of a dog hobbyist or ranch dog permit includes provision of an individual license for each dog harbored under the permit at no additional charge.

**EXHIBIT FEES & COMMERCIAL ANIMAL ESTABLISHMENT
ESTABLISHED UNDER 8.04.230 AND 8.04.240:**

Animal Exhibition Fee the charge for timely processing of unwaived Exhibit fee	[\$500.00]	same
Commercial Animal Establishment Fee for an annual permit and for timely renewals	[\$450.00]	same
Delinquency charge assessed for late renewal of an expired permit	[\$75.00]	same
Additional charge assessed for every calendar month of said delinquency	[\$50.00]	same

**STRAY LIVESTOCK CHARGES ESTABLISHED PURSUANT TO
8.04.220:**

Equine and Bovine (over 6 mo.) charge for securing and keeping (per day)	[\$200.00] [\$75.00]	same same
Equine and Bovine (6 mo. & under) & sheep, goat, hogs, etc. charge for securing and keeping (per day)	[\$100.00] [\$30.00]	same same
Herding Fee the charge per hour or any fraction thereof for return of an animal that has strayed	[\$100.00]	same

All costs incurred by County in connection with such animals shall be a pass-through to the animal owner, including, but not limited to, the cost of herding, advertising, transporting, drugs, and veterinary services.

**SENIOR CITIZEN, BLIND OR DISABLED PERSON'S DISCOUNT
ON SPECIFIED FEES PURSUANT TO 8.04.255:**

Dog license Fees (any duration) discount from listed fees	25% discount	same
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* Increased fees denoted in bold font

† Said removal and disposition fees shall be chargeable to the property owner where the dead wildlife is found.

SECTION IV: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage. Additionally, as required by Government Code section 25124(b), a summary of the proposed ordinance was published at least five days prior to the board of supervisors meeting at which the proposed ordinance was adopted and the summary shall be published again within fifteen (15) days after its adoption, with the names of the Supervisors voting for and against the same, in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin in accordance with Government Code section 25124.

SECTION V: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 10th day of April 2018 by the following vote:

AYES: SUPERVISORS Dennis Rodoni, Katie Rice, Judy Arnold, Kathrin Sears,
 Damon Connolly

NOES: NONE

ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK