



TOWN OF FAIRFAX

STAFF REPORT

June 6, 2018

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Second reading by title only and adoption of 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

Waive second reading, read by title only and adopt:

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

This ordinance was introduced at the Council's May meeting. Tonight is the second reading. If adopted, the ordinance will take effect after 30 days.

As background, 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, which were included in the Council's May 2, 2018, agenda packet (item #11).

ATTACHMENT

Ordinance

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