

## ORDINANCE NO. 879

### AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING TITLE 2.12, "TOWN MANAGER", SECTION 2.12.070, "POWERS AND DUTIES" OF THE FAIRFAX TOWN CODE, AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

**WHEREAS**, the Town wishes to amend its Town Code to clarify that Town Council ratification of the Town Manager's appointments and removals of certain Town officers is no longer required.

**NOW, THEREFORE**, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Section 2.12.070 of Title 2 of the Fairfax Municipal Code, entitled "Powers and Duties," is hereby amended in part to read as follows (deletions shown in ~~strike through~~ and additions shown in underline):

**"§ 2.12.070 Powers and Duties.**

...

(3) *Appointment and removal of certain officers.* Subject to, and in accordance with, civil service and town personnel ordinances and regulations, to appoint, remove and demote any appointive officers and employees, except the Town Attorney; provided, however, that the appointment, ~~removal or demotion~~ of department heads shall require ratification by the Town Council, ~~and provided further, that after~~ until the Town Manager has served in that position for 12 months, ~~the Town Council may, by resolution,~~ eliminate the requirement for such ratification and vest the power to appoint, remove or demote department heads in the Town Manager, and provided further, that when ~~required, the final vote to ratify the appointment, removal or demotion of a department head shall be done in an open session of the Town Council;~~

....."

**SECTION 2.** All other provisions of 2.12.070 (and 2.12) shall remain the same.

**SECTION 3. Compliance with CEQA.** This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the Town. This Ordinance is exempt from environmental review under CEQA pursuant to State CEQA Guidelines sections 15061(b)(3) and 15378(b)(5). An activity is subject to CEQA only if that activity has "the potential for causing a significant effect on the environment." (State CEQA Guidelines, § 15061(b)(3).) An activity is thus exempt from CEQA "[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (*Ibid.*) Here, the amendment

of the Municipal Code as set forth in this Ordinance does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines, § 15061(b)(3).) Moreover, approval of the Ordinance merely constitutes an administrative activity of the City and is additionally exempt from CEQA on that basis. (State CEQA Guidelines, § 15378(b)(5).)

**SECTION 5. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 6. Effective Date and Posting.** This Ordinance shall take effect thirty (30) days after its adoption. 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 Building, located at 46 Park Road.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 3<sup>rd</sup> day of May 2023, and duly adopted at the next regular meeting of the Town Council on the 7<sup>th</sup> day of June 2023, by the following vote, to wit:

AYES: Ackerman, Hellman, Blash, Coler, Cutrano

NOES: None

ABSENT: None

ABSTAIN: None

/s/

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Chance Cutrano, Mayor

/s/

Attest: \_\_\_\_\_  
Michele Gardner, Town Clerk