

ORDINANCE NO. 881

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ADDING CHAPTER 15.17 “GATE SAFEGUARDS” TO TITLE 15 “BUILDINGS AND
CONSTRUCTION” OF THE FAIRFAX MUNICIPAL CODE**

WHEREAS, vehicular gates, automatic vehicular gates, and other large (“gates”) pose unique and significant threats to life and safety, particularly to children; and

WHEREAS, building code regulations, including Fairfax Municipal Code Title 15 “Buildings and Construction”, impose certain requirements regarding the installation and construction of gates to help guard against threats to life and safety; and

WHEREAS, due to the severity of potential harm, including the risk of serious injury and death, the Town finds that it is necessary to include additional requirements regarding the installation operation, and inspection of gates as set forth in the proposed Ordinance Amendment; and

WHEREAS, the Town finds that the Ordinance Amendment is necessary to protect the health, safety, and welfare of the public; and

WHEREAS, required notice of the Town Council hearing to introduce this Ordinance was published pursuant to Government Code section 6066 in the Marin Independent Journal, a newspaper of general circulation nearest to the Town; and

WHEREAS, the Town Council held a regularly scheduled public meeting on July 12, 2023 to introduce the Ordinance Amendment and heard and considered all public testimony on this matter; and

WHEREAS, the Town Council finds the provisions of the Ordinance Amendment are consistent with the goals and policies of the Town of Fairfax General Plan, and other adopted ordinances and regulations of the Town; and

WHEREAS, the proposed Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Amendment will have a significant effect on the environment. The Amendment will make no changes to land uses or intensity, nor will it cause any environmental effect.

NOW THEREFORE THE TOWN OF FAIRFAX DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The above recitals are true and correct and are incorporated as findings herein.

SECTION 2: CEQA. This Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Amendment will have a significant effect on the environment.

SECTION 3: Ordinance Amendment. The following Chapter 15.17 “Gate Safeguards” is added to Title 15 “Buildings and Construction” as follows:

15.17.010 – Findings and Purpose.

The purpose of this Chapter is to promote public safety and welfare and reduce the risk of death or injury that may result from improperly installed or maintained gates by imposing safety requirements for the installation of gates, and requiring periodic and professional gate inspection and a certificate of inspection.

15.17.020 – Definitions. For the purposes of this Chapter, the following definitions shall apply:

- a. “Automatic vehicular gate” is a gate that is intended for use at a vehicular entrance or exit a property that is not intended for pedestrian traffic, and is designed and operated automatically without manual human intervention.
- b. “Certificate of inspection” means a document signed and/or stamped by a gate inspector attesting that the inspector performed an in-person inspection of the gate and based on that inspection has determined that the gate meets all of the standards set forth in this Chapter, the gate has been properly maintained, and the gate is in good working order. In addition, the document shall include the following:
 - 1. Inspection date.
 - 2. Site address.
 - 3. Name of the property owner.
 - 4. Contact information of inspector.
 - 5. Signature and/or stamp of the inspector.
- c. “Gate inspector” means any licensed fence installer, licensed automatic system installer, ICC-certified building inspector, licensed architect, or licensed engineer as reasonably approved by the Town.
- c. "Property owner" means and includes, without limitation, the fee owner(s) of real property, their agents, or the person(s) in possession of the real property.
- d. “Vehicular gate” is a gate that is intended for use at a vehicular entrance or exit to a property that is not intended for pedestrian traffic.

15.17.030 – Scope. The provisions of this Chapter shall apply to all automatic vehicular gates, vehicular gates, and any gate that is more than 48 inches (1219 mm) in width and/or more than 84 inches (2134 mm) in height (collectively, “gates”).

15.17.040 – Installation and Safety Requirements.

- a. General Requirements for All Gates.
 - 1. All gates must comply with this Chapter and with all applicable building regulations set forth in Fairfax Municipal Code Title 15 “Buildings and Construction”, and any other applicable law.
 - 2. Any gate more than 48 inches (1219 mm) in width and/or more than 84 inches (2134 mm) in height shall meet the requirements of ASTM F1184, shall be installed per the manufacturer’s recommendations, and shall be designed, constructed, and installed to meet all the following:
 - i) Gate shall not fall over more than 45 degrees from a vertical plane when the gate is detached from supporting hardware.
 - ii) Gate shall be balanced and not move under the gate’s own weight or by gravity.

- iii) Rolling wheels shall be covered.
- iv) Gate shall have positive stops.

b. Automatic Vehicular Gates.

- 1. Shall be designed, constructed and installed in compliance with ASTM F2200.
- 2. Vehicular Gate openers, where provided, shall comply with UL 325.

15.17.050 – Maintenance, inspection, and certificate of inspection. The property owner shall keep all gates on the property well-maintained and in good working order. The property owner shall submit a certificate of inspection at least once every three (3) years for each gate to the Town Building Department. The property owner shall maintain a copy of the most recent certificate of inspection and make it available to the building official upon request.

15.17.060 – Time limits for compliance. Newly installed gates are subject to the provisions of this Chapter. Gates that are in existence as of the effective date of this Ordinance must comply with this Chapter by January 1, 2024, including obtaining any permits as required under local or State code.

15.17.070 – Violations and Enforcement. Violations of this Chapter shall constitute a public nuisance subject to the enforcement, abatement, and the imposition of penalties allowed in the Town Municipal Code and pursuant to State law. All remedies are cumulative. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.

SECTION 4: Severability. The Town Council hereby declares every section, paragraph, sentence, clause, and phrase is severable. If any section, paragraph, sentence, clause or phrase of this Ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 5: Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage. Within fifteen (15) days following its passage, copies of this ordinance shall 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, 46 Park Road.

The foregoing Ordinance was introduced at a regular meeting of the Fairfax Town Council on the 12th day of July 2023, and duly adopted at the next regular meeting of the Town Council on the 2nd day of August 2023, by the following vote, to wit.

AYES: Cutrano, Coler, Ackerman, Blash, Hellman
 NOES: None.
 ABSENT: None.
 ABSTAIN: None.

_____/s/_____
 Chance Cutrano, Mayor

ATTEST _____/s/_____
 Michele Gardner, Town Clerk