

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AMENDING CHAPTER 11.01 OF TITLE 11 OF THE FULLERTON MUNICIPAL CODE REGARDING THE ADOPTION OF ANIMAL CONTROL PROVISIONS OF THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE, CALIFORNIA

WHEREAS, the City of Fullerton entered into an agreement with the County of Orange on May 1, 2016, for the provision of animal care services; and

WHEREAS, Section V of the City's agreement with the County requires that the City enact and maintain in full force and effect animal control, welfare, and licensing ordinances that are identical to the County's ordinances; and

WHEREAS, the County recently revised its animal control ordinances; and

WHEREAS, the City desires to amend Chapter 11.01 of the Fullerton Municipal Code to adopt by reference the revised County ordinances.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 11.01 of Title 11 of the Fullerton Municipal Code is hereby deleted in its entirety and replaced as follows:

11.01.010 Adoption by reference of provisions of the Codified Ordinances of the County of Orange.

A. The following provisions of the Codified Ordinances of the County of Orange, as they relate to animals, and as may be amended from time to time by the Board of Supervisors of the County of Orange, California, as well as such other regulations adopted by the Board of Supervisors concerning animal control, including those which relate to fees, are adopted by reference under the authority of Sections 50022.1 through 50022.9 of the California Government Code and made a part hereof as if fully set forth herein:

1. Division 1 of Title 4;
2. Article 1 of Division 1 of Title 5;
3. Sections 5-1-29 and 5-1-30 of Article 2 of Division 1 of Title 5;
4. Article 3 of Division 1 of Title 5;
5. Division 2 of Title 5; and
6. (6) Article 17 of Division 3 of Title 5.

B. The County ordinances adopted by reference are hereby established and adopted as the rules, regulations, provisions and conditions to be observed and followed to govern animal control, welfare, and license requirements in the City in the same manner as they apply within the unincorporated area of the County of Orange. The ordinances adopted hereby shall be read to apply to the City as necessary to achieve that goal, including interpreting references to the County or the unincorporated area of the County to mean and refer to the City. The provisions referring to animal license fees established by resolution of the Board of Supervisors shall be read to mean the animal license fees established by resolution of the City Council. Only those provisions of Title 5 of the Codified Ordinances of Orange County relevant to animal-related facilities, including animal exhibitions, animal rental establishments, animal rescuers, commercial stables, grooming parlors, kennels, and pet shops, are adopted hereby.

C. One full copy of the above-specified provisions of the Codified Ordinances of the County of Orange, certified to be a true copy by the City Clerk, shall be kept on file in the office of the City Clerk for public inspection.

#### 11.01.020 Penalties.

A. Any person who violates any provision of this chapter shall be guilty of an infraction, except as otherwise provided in subsection (B) below.

B. Any person who violates any provision of Sections 4-1-48, 4-1-51, or 4-1-95 of Division 1 of Title 4 or any provision of Title 5 of the Codified Ordinances of Orange County adopted hereby is guilty of a misdemeanor. Moreover, any person who violates any other provisions of Division 1 of Title 4 of the Codified Ordinances of Orange County where the violation occurs within one (1) year of the occurrence of two (2) other separate violations of this division by that person is guilty of a misdemeanor. Each day on which a violation occurs or continues shall constitute a separate offense.

C. Any license required by Article 4, Division 1 of Title 4 of the Codified Ordinances of the County of Orange not purchased or renewed within fifteen (15) days after expiration, or the date on which it comes due, shall be considered delinquent and a late fee as determined by the Board of Supervisors shall be added to the cost of the new license. The Director may waive the above late fee if the Director determines the applicant made a reasonable effort to comply with the above deadline.

D. Any person convicted of a misdemeanor for a violation of any of the provisions of this chapter shall, unless otherwise specifically provided by statute, be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both such fine and imprisonment.

E. Any person convicted of an infraction for a violation of the provisions of this chapter shall, unless otherwise specifically provided by statute, be punished by: (1) a fine not exceeding one hundred dollars (\$100.00) for the first violation; (2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the

same code provision within a period of one year; and (3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within one year.

F. An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him or her unless he or she is arrested and not released on his or her own promise to appear, his or her own recognizance, or a deposit of bail.

G. Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions including, but not limited to, powers of peace officers, jurisdiction of courts, periods for commencing action and for bringing a case to trial, and burden of proof.

H. Barking dog and animal nuisance civil fines. Fines for violation the provision of Subarticle 2 of Article 2 of Division 1 of Title 4 of the Codified Ordinances of Orange County shall be as follows:

Fine for first offense (per citation)	\$250.00
Fine for second offense within same twelve-month period (per citation)	\$275.00
Fine for third offense within same twelve-month period (per citation)	\$303.00
Fine for fourth offense within same twelve-month period (per citation)	\$333.00
Fine for fifth offense within same twelve-month period (per citation)	\$366.00
Fine for six and subsequent offenses within same twelve-month period (per citation)	\$403.00

I. In the event that a fine is imposed under the authority granted by said Subarticle 2 of Article 2 of Division 1 of Title 4 remains unpaid for thirty (30) days after it is due and payable pursuant to Section 4-1-59.7 of the Codified Ordinances of Orange County, an amount equal to the fine shall be added as a late penalty and the late penalty and fine shall be due immediately. If a Hearing Officer upholds the issuance of a citation in an administrative hearing, the late penalty will be assessed if the fine is not paid within thirty (30) days from the conclusion of the hearing. Failure to timely remit payment of a citation fine and/or late penalty authorized pursuant to said Section 4-1-59.7 will result in criminal liability and a warrant may be issued for a violator's arrest. Nonpayment of such fine and/or late penalty shall be a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both such fine and imprisonment. The City at its discretion may pursue any and all legal remedies for the collection of unpaid fines and late penalties. Pursuit of one remedy does not preclude pursuit of any other remedies until the total fines and late penalties owed by a violator under this subsection have been collected.

J. The provisions of Sections 4-1-59.78 through 4-1-59.12 of the Codified Ordinances of Orange County shall govern administrative hearings, right to judicial review, and collection of unpaid fines under this section.

K. The fines and penalties set forth in this section shall be in addition to those set forth in Chapters 1.08 and 1.10 of the Fullerton Municipal Code.

SECTION 2. Any provision of the Fullerton Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, phrase, or clause of this Ordinance is for any reason held to be unconstitutional, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses may be declared unconstitutional.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law. This Ordinance shall become effective thirty (30) days from and after its passage.

ADOPTED BY THE FULLERTON CITY COUNCIL ON \_\_\_\_\_, 2018.

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Douglas B. Chaffee, Mayor

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Lucinda Williams, City Clerk