

**CITY OF CLOVERDALE
ORDINANCE NO. 724-2018**

AN ORDINANCE OF THE CITY OF CLOVERDALE GRANTING AUTHORITY TO ITS PROSECUTING ATTORNEY AND ENFORCING AUTHORITY TO PROSECUTE AND CHARGE MISDEMEANORS AS INFRACTIONS AND AMENDING SECTION 1.12.020 "CLASSIFICATION OF VIOLATIONS" OF THE CLOVERDALE MUNICIPAL CODE

WHEREAS, in 2008, the City of Cloverdale adopted Ordinance 659-2008, which created a comprehensive code enforcement program; and

WHEREAS, the Cloverdale Municipal Code currently permits, within the discretion of the prosecuting attorney or enforcing authority, the ability to charge and prosecute all violations of the Cloverdale Municipal Code as misdemeanors; and

WHEREAS, the City of Cloverdale recognizes that in certain situations, citations for minor violations of the Cloverdale Municipal Code, may be more appropriately charged and prosecuted as infractions to gain compliance and recover fines; and

WHEREAS, the City of Cloverdale wishes to grant its prosecuting attorney and enforcing authority the ability to prosecute and charge all misdemeanors of the Cloverdale Municipal Code as infractions, in their reasonable discretion; and

WHEREAS, the City Council also wishes the Cloverdale Municipal Code reflect the aforementioned granting of authority.

NOW, THEREFORE, the City Council of the City of Cloverdale does ordain as follows:

SECTION 1 The recitals above are true and correct and incorporated by reference herein.

SECTION 2. AMENDMENT

Section 1.12.020 "Classification of violations" of the Cloverdale Municipal Code is hereby amended in the manner stated in the attached **Exhibit A**.

SECTION 3. SEVERABILITY

If any provision of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by State legislation, such decision or legislation shall 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 and every section, subsection, sentence, clause, or phrase hereof not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

SECTION 4. EFFECTIVE DATE

This Ordinance shall be, and the same is hereby declared to be, in full force and effect from and after thirty (30) days after the date of its passage, and shall be published once before the expiration of fifteen

(15) days after said passage, with the names of the Council Members voting for or against the same, in a newspaper of general circulation published in the County of Sonoma, State of California.

I hereby certify that the foregoing is a true and complete copy of an Ordinance duly and regularly adopted by the City at a regular meeting thereof held on December 11, 2018, by the following vote:

PASSED, APPROVED AND ADOPTED this 11th day of December 2018, by the following roll call vote:
(Ayes- 5; Noes-0; Abstain- 0)

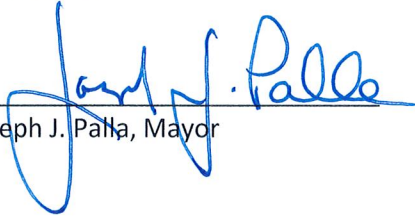
AYES: Vice Mayor Russell, Councilmember Brigham, Councilmember Wolter, Councilmember Bagby and Mayor Palla

NOES: None

ABSENT: None

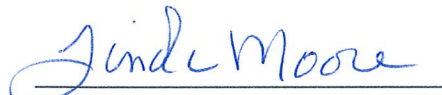
ABSTAIN: None

APPROVED:



Joseph J. Palla, Mayor

ATTESTED:



Linda Moore, Deputy City Clerk

Exhibit A – Redline Revision Section 1.12.020 “Classification of violations” of the Cloverdale Municipal Code

Exhibit A – Redline Revision Section 1.12.020 “Classification of violations” of the Cloverdale Municipal Code

1.12.020 Classification of violations.

A. Any violation of this code may be prosecuted as a criminal offense. Unless expressly described as a misdemeanor, a violation of any provision of this code, or failure to comply with any mandatory requirement hereof, shall constitute an infraction. Notwithstanding the preceding sentence, a violation of this code may, in the discretion of the prosecuting attorney or other enforcing authority, be charged and prosecuted as a misdemeanor or an infraction.

B. Any person convicted of an infraction pursuant to this code may be punished by a fine of not more than one hundred dollars for a first violation or a fine of not more than two hundred dollars for a second violation of the same code section within one year. A third (or subsequent) violation of the same code section by the same person within a twelve-month period may be charged and prosecuted as a misdemeanor, even if such violation would otherwise be described as an infraction. In no event may the penalty imposed exceed that which is permitted under state law.

C. Any person convicted of a misdemeanor pursuant to this code, unless provision is otherwise herein made, may be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment. In no event may the penalty imposed exceed that which is permitted under state law.

D. Upon entry of a second or subsequent conviction against the same responsible party within a two-year period for a condition of affected property constituting a nuisance condition under Chapters 1.10 through 1.15, the court may require the responsible party to pay to the city treble the cost of the abatement (except for conditions abated pursuant to Health and Safety Code Section 17980). Any costs awarded to the city may be enforced in the manner described in Section 1.14.140. (Ord. 659-2008 § 2 (part), 2008)

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