

Cotati City Council

Agenda Staff Report

Item type: CONSENT CALENDAR (ACTION)
To: City Council
Subject: Adoption of an Ordinance Amending Section 1.20.010 of Chapter 1.20 of the Cotati Municipal Code to Permit Code Violations to be Charged and Prosecuted as Either Misdemeanors or Infractions
Date: August 22, 2017
Written by: Michael Parish, Chief of Police

Recommendation

It is recommended that the City Council adopt an ordinance amending Section 1.20.010 of the Cotati Municipal Code to permit Code violations to be charged and prosecuted as either infractions or misdemeanors.

Background

Section 1.20.010 of the Cotati Municipal Code provides that all violations of the Code are misdemeanors unless the violation is specifically listed in the Code as an infraction. Therefore, the majority of Code violations are currently misdemeanors. Often when someone receives a citation or is arrested for a misdemeanor Code violation, the Sonoma County District Attorney's Office declines prosecution, which results in the citation being dismissed. By contrast, if infractions are issued for violation of the Code, it will allow the ability to issue a fine for minor offenses and not backlog the District Attorney with minor offenses. Under the proposed changes, the City would still be able to issue misdemeanor citations for repeat offenders or egregious offenses.

This ordinance was introduced at the August 8, 2017 City Council meeting.

Analysis/Discussion

By amending Section 1.20.010 of the Code to reclassify all Code violations as "wobblers" (infractions or misdemeanors), City staff would have the option to charge and prosecute a Code violation as either an infraction or a misdemeanor, which would result in increased convictions. However, enforcing a Code violation as a misdemeanor would still be an option.

If an infraction citation is issued it would be forwarded to the Sonoma County Superior Court. The defendant would receive by mail a written reminder/notice from the Court to pay a fine or appear to appeal the citation. If they choose to pay the fine listed on the City bail schedule, plus

Superior Court administrative costs, the defendant would directly submit payment to the Court. If the defendant wishes to appeal the citation, he or she can appear in person Monday through Friday for an arraignment hearing where the defendant may request a Court trial with the officer present to be heard by the Sonoma County Superior Court. The Court may convict the defendant, or dismiss one or more violations, based on the testimony and evidence presented at the trial. The Court also has the authority to reduce fines if the defendant is found guilty. If the defendant is convicted and wishes to appeal, the defendant's recourse is to file an appeal with the Superior Court.

Fines are levied against those who are convicted or fail to appear. If a defendant does not pay the fine or does not appear in Court to appeal the citation before the citation due date, a delinquency fine is added and the total amount due is collected by the Court Collections Division or may be transferred to an outside collections agency identified and procured by the Court.

The City's bail schedule will need to be updated to allow for the prosecution of "wobblers" (infractions or misdemeanors). Additionally, the bail schedule will need to be updated to add bail amounts for Unlawful Fireworks, Vehicles for Hire-Taxi and Public Exposure. Also, a more appropriate code reference for Designated Truck Routes will be added for purposes of citations. All of the changes are recommended changes to bring the City's bail schedule current.

Financial Considerations

The City receives 85% of the amount of the penalty listed on the citation. Therefore, with a \$100 ticket, the City receives \$85 from Sonoma County. However, with the related court appearances overtime and other City administrative costs, issuing tickets are not a revenue generating activity, but is intended to promote public safety and preserve the peace.

Environmental Issues

The action of adopting the ordinance does not constitute a project as defined by California Environmental Quality Act Guidelines Section 15378; therefore, no further environmental review is required.