

ORDINANCE NO. 874

INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COTATI AMENDING COTATI MUNICIPAL CODE CHAPTER 1.20 OF TITLE 1, TITLED “GENERAL PENALTY” TO PERMIT CODE VIOLATIONS TO BE CHARGED AND PROSECUTED AS EITHER INFRACTIONS OR MISDEMEANORS

WHEREAS, Section 1.20.010 of Chapter 1.20 of Title 1 of the Cotati Municipal Code, titled “General Penalty,” provides that every violation of the Cotati Municipal Code is a misdemeanor unless otherwise specifically provided by the Code; and

WHEREAS, the City Council finds that it is necessary to amend Section 1.20.010 of Chapter 1.20 of Title 1 of the Cotati Municipal Code to permit violations of the Code to be charged and prosecuted as either infractions or misdemeanors.

WHEREAS, the action of amending the Cotati Municipal Code to allow violations to be prosecuted as infractions or misdemeanors does not constitute a project as defined by California Environmental Quality Act Guidelines Section 15378; therefore, no further environmental review is required.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF COTATI DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals Made Findings. The above recitals are hereby declared to be true and correct and findings of the City Council of the City of Cotati.

SECTION 2. Amendments to Chapter 1.20 of the Cotati Municipal Code. Section 1.20.010 of Chapter 1.20 of the Cotati Municipal Code is hereby amended as follows (in this Section 2, text to be inserted into the Municipal Code is indicated in underline while text to be stricken is presented in ~~strikeout~~; text in standard type currently appears in the Municipal Code and is reaffirmed and readopted by this ordinance):

1.20.010 Designated.

Unless otherwise specifically provided, any person violating any provisions of this code or failing to comply with any of the mandatory requirements hereof ~~of the code of the city~~ is guilty of a misdemeanor. Notwithstanding the preceding sentence or any other provision of this code, any violation constituting a misdemeanor may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction. A violation shall be deemed an infraction if a citation is issued specifying that the violation is an infraction or the city attorney or district attorney makes a motion to reduce a misdemeanor charge to an infraction prior to trial on the matter.

Any person convicted of a misdemeanor ~~under the~~ pursuant to this code ~~of the city~~ shall be punished by a fine or by imprisonment not to exceed the maximum amount or time, respectively, allowed by law, or by both such fine and imprisonment. Any person convicted of an infraction pursuant to this code shall be punished by a fine not to exceed the maximum amount allowed by law.

Each such person is guilty of a separate offense for each and every day during any portion of which any violation of the code of Cotati is committed, continued or permitted by any such person, and he shall be punished accordingly.

In addition to the penalties hereinabove provided, any condition or cause permitted to exist in violation of any of the provisions of this code is a public nuisance, and may be abated in accordance with law, and each day such condition continues shall be regarded as a new and separate offense.

SECTION 3: Compliance with the California Environmental Quality Act. This Ordinance does not constitute a project as defined by California Environmental Quality Act Guidelines Section 15378; therefore, no further environmental review is required.

SECTION 4: Severability. The provisions of this Ordinance are severable and if any provision, clause, sentence, section, word or part thereof is held to be illegal, unconstitutional or inapplicable to any person or circumstance, such illegality, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of this Ordinance or their applicability to other persons or circumstances.

SECTION 5: Judicial Review. The time within which judicial review must be sought is governed by California Government Code Section 65009.

SECTION 6: Posting. The City Clerk shall cause this ordinance to be published and/or posted within fifteen days after its adoption.

SECTION 7: Effective Date. This Ordinance shall take effect 30 days following its adoption

Approved: _____
Mayor

Attest: _____
Lauren Berges, Deputy City Clerk

Approved as to form:

Robin Donoghue, City Attorney

This document is a true and correct copy of Ordinance Number 874 and has been published or posted pursuant to law. *California Government Code § 40806*

Lauren Berges, Deputy City Clerk