

**CITY OF CLOVERDALE
CITY COUNCIL**

ORDINANCE NO. 734-2020

AN ORDINANCE OF THE CITY OF CLOVERDALE AMENDING THE CLOVERDALE MUNICIPAL CODE TO ADD SECTION 18.20.010: RIGHT TO INDUSTRY AND MUNICIPAL CODE SECTION DEFINITIONS TO EFFECTUATE VARIOUS GENERAL PLAN GOALS, POLICIES AND IMPLEMENTATION MEASURES REGARDING THE NEED TO ESTABLISH PROTECT FOR INDUSTRIAL USES

THE CITY COUNCIL OF THE CITY OF CLOVERDALE HEREBY ORDAINS AS FOLLOWS:

SECTION 1. RECITALS

- A. On February 19, 2019, the Planning and Community Development Subcommittee deliberated on the matter of whether the City should adopt an ordinance that establishes a Right to Industry Ordinance.
- B. Amendments to Cloverdale Municipal Code Title 18 (Zoning) are necessary in order to effectuate various adopted goals, policies and implementation measures of the General Plan regarding the need to avoid conflicts between residential and industrial uses.
- C. On June 6, 2019, in a workshop format the Planning Commission deliberated the creation of a Right to Industry Ordinance to avoid conflicts between residential and industrial uses, provide disclosure to potential buyers near industrial operations and Clarifying the circumstances in which an industrial operation may ultimately be declared a nuisance.
- D. On December 3, 2019, the Planning Commission held a properly noticed public hearing regarding this Zoning Ordinance Amendment, considered all comments received in writing and all testimony received at the public hearing and adopted PC Resolution No. 014-2019, recommending approval of the Ordinance amending the Municipal Code to establish standards for avoiding conflicts between industrial and residential uses, provide disclosure to potential buyers near industrial operations and clarifying the circumstances in which an industrial operation may ultimately be declared a nuisance.
- E. In order to implement various adopted goals and policies of the General Plan regarding the need for nuisance avoidance between industrial and residential uses within the City, the Planning Commission by adoption of Resolution No. 014-2019 has recommended adding Section 18.20.010 to the Cloverdale Municipal Code.
- F. The proposed Ordinance is determined to be exempt from environmental review in compliance with Section 15061(b)(3). Approval of the Right-to-Industry Ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As the Right-to-Industry Ordinance only provides a mechanism for written disclosure of land uses, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.
- G. The City Council makes the following findings listed in Section 18.20.010 related to a Zoning Ordinance Amendment to amend the Cloverdale Municipal Code to add Chapter 18.17 "Right to Industry" to

effectuate various adopted goals, policies and implementation measures of the General Plan regarding the need for disclosure regarding industrial uses, and what constitutes a nuisance from industrial operations.

1. The proposed amendment is consistent with the adopted General Plan.

The proposed amendments are intended to help effectuate various General Plan goals, policies and implementation measures regarding the need to avoid conflicts between industrial and residential land uses. The amendments would also provide for a process for disclosing to existing and potential property owners and occupants if they are in proximity to industrial uses; In accordance with General Plan Policies LU 1-4.a. the proposed amendments are determined to be consistent with the goals, policies and implementation measures of the General Plan.

2. The proposed amendment is internally consistent with other applicable provisions of the Zoning Ordinance.

The amendments include revisions to the Zoning Ordinance, including the addition of Chapter 18.20.010 "Right-to-Industry". This amendment is internally consistent with all applicable provisions of the Zoning Ordinance.

3. The proposed amendment will not be detrimental to the public health, safety, or welfare or to the use of land in any adjacent zone.

The proposed Right to Industry contained in Chapter 18.20 would seek avoid conflicts between residential and industrial uses.

4. The site is suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested Zoning District and anticipated land uses / developments.

The proposed amendments would provide Right to Industry standards for private property. The proposed amendments would also provide a disclosure process, providing property owners information about industrial operations within 300 feet of their residence. The disclosure process allows potential property owners and occupants information regarding potential discomfort arising from industrial operations.

H. On February 12, 2020, the City Council held a properly noticed public hearing regarding this Zoning Ordinance Amendment and considered all comments received in writing and all testimony received at the public hearing.

Chapter 18.20
Right to Industry Ordinance

18.20.010 Purpose.

The purpose of this ordinance is to enhance the prospects of growth and stability for businesses located within the City's established industrial zones. The City recognizes that when non-industrial uses occur near industrial areas, the industrial operations may become the subject of nuisance complaints due to lack of information about such operations. This ordinance seeks to reduce nuisance complaints by disclosing to existing and potential property owners and occupants of residential properties which are located within 300 feet of industrially zoned land that they are affected by this ordinance. Furthermore, this ordinance seeks to clarify the circumstances in which an industrial operation may ultimately be declared a nuisance.

18.20.020 Nuisance Policy

It is the intent of this ordinance to limit the circumstances in which industrial operations may be considered a nuisance. In furtherance of this purpose, no existing or future industrial business, or any of its appurtenances, which is conducted in a manner consistent with all land use and environmental laws shall be or become a nuisance, private or public, for adjacent land uses in or about the locality after the same has been in operation for more than three years when such action was not a nuisance at the time it began; provided that this section shall not apply if the nuisance results from a negligent or improper operation of any such industrial operation or its appurtenances.

This section shall not be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Water Code, or any other applicable provision of state law relative to nuisances. Instead, it is only to be utilized in the interpretation and enforcement of the provisions of this code and city regulations.

18.20.030 Industrial Land

As used in this ordinance, the term "Industrial Land" shall mean any property which is within an industrial zoning district as defined in Chapter 18.06 of this Code.

18.20.040 Disclosure Statement

Whenever a Disclosure Statement is required to be provided or otherwise used as set forth in this Chapter, it shall consist of the following language:

Right to Industry Disclosure Statement

This Property is located in or near land which is zoned or used for industrial uses. Residents of this property may be subject to inconvenience or discomfort arising from industrial operations. Such inconvenience and discomfort may include, but is not limited to, noise, odors, fumes, dust smoke, vibrations, visual impact, truck traffic and the operation of machinery during any 24 hour period. The City of Cloverdale has adopted policies to preserve industrial uses and residents or occupants of this property should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living within proximity to an active industrial area.

The Disclosure Statement is for informational purposes only and nothing in this Ordinance or the Disclosure Statement shall prevent anyone from complaining to any appropriate agency, or pursuant any other available remedy, concerning an unlawful or improper industrial practice.

18.20.050 Required Disclosure

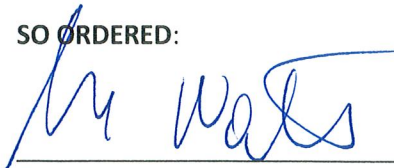
A Disclosure Statement shall be provided to potential owners and occupants of real property used or zoned for residential uses as follows:

1. Upon Sale or Transfer. A person acting as an agent for the seller of property located within 300 feet of Industrial Land, or the seller of the property, if acting without an agent, shall provide the Disclosure Statement to the prospective purchaser. The Disclosure Statement shall be delivered in the manner set forth in Civil Code Sections 1102.3 and 1102.10. Exceptions to the applicability of this Section are set forth Civil Code Section 1102.2.
2. Upon Subdivision. The Disclosure Statement shall be recorded as a notation on any final subdivision map or parcel map for a residential subdivision located within 300 feet of Industrial Land.
3. Discretionary Land Use Permits. The City shall include the Disclosure Statement on all discretionary land use permit applications for residential land uses located with 300 feet of Industrial Land and may require an applicant to record a notice of the Disclosure Statement as a condition of permit approval.
4. Rental and Lease Agreements. Any agreement for the rental or lease of a residential property or unit which is located within 300 feet of Industrial Land shall contain the Disclosure Statement.
5. Building Permits. The City shall provide the Disclosure Statement to all applicants for building permits for new residential construction or mobile home placement within 300 feet of Industrial Land.

INTRODUCED by the City Council of the City of Cloverdale on the 12th day of February 2020, and passed and adopted on February 26, 2020 by the following roll call vote:

AYES:	(4)	Councilmembers Bagby and Brigham, Vice Mayor Turner, and Mayor Wolter
NOES:	(0)	None
ABSTAIN:	(0)	None
ABSENT:	(1)	Councilmember Cruz

SO ORDERED:



 Gus Wolter, Mayor

ATTEST:



 Irene Camacho-Werby, City Clerk



Date: February 27, 2020