

**CITY OF CLOVERDALE  
CITY COUNCIL  
ORDINANCE NO. XXX-2020**

**AN URGENCY ORDINANCE OF THE CITY OF CLOVERDALE FINDING THAT CONDITIONS  
EXIST WHICH NECESSITATE THE PROHIBITION OF THE SALE AND DISCHARGE OF  
SAFE AND SANE FIREWORKS FOR THE YEAR 2020**

**THE CITY COUNCIL OF THE CITY OF CLOVERDALE DOES ORDAIN AS FOLLOWS:**

**SECTION 1. FINDINGS**

- A.** The City of Cloverdale (“City”), has adopted the California Fire Code with amendments specific to the City, based upon the City’s topographical, local climatic, and geographical conditions. As noted in those adopted findings, the City experiences “dry periods” where temperatures can range from 70 degrees to over 105 degrees, and these temperatures are often accompanied by light to moderate gusty winds which coupled with highly flammable vegetation and neighborhoods local in wildland-urban interface areas create hazardous fire conditions in and around the City.
- B.** The City contains and borders areas which have been determined to be moderate, high, and very high fires severity zones by the State of California Fire Marshal. In Sonoma County, the City and the City of Santa Rosa are the only two jurisdictions that contain Very High Fire Hazard Severity Zones within their respective local responsibility areas.
- C.** Because of the unique fire hazard risks that the City faces coupled with its topographical, climatic, and geographic conditions, the City determined it necessary to reserve its right to prohibit the sale and discharge of safe and sane fireworks within its jurisdiction in any given year, upon a finding by the City Council that conditions exists which create an extreme danger to the public health and safety and/or life and property of the City’s residents and businesses, as well as visitors to the City.
- D.** Cloverdale Municipal Code section 15.14.695(B) states in part, “the City Council may in any given fireworks sales year prohibit the sale and discharge of safe and sane fireworks upon determining that conditions exist in the City, that may include, but are not limited to, fire weather events, fuel moisture, drought, limitations on available firefighting forces and/or other condition, that the City Council finds creates an extreme danger to the public health and safety and/or life and property of the residents, businesses and visitors of the City. In its sole discretion, the City Council may consult with the Cloverdale Fire Protection District prior to prohibiting the sale and discharge of safe and sane fireworks in any given fireworks sales year.”
- E.** Over the past four years, Sonoma County has experienced several devastating wildfires which have greatly impacted the City. Most recently, the Kincade Fire, which started around Geyserville, California on October 23, 2019, burned over 75,000 acres in Sonoma County, and forced mandatory evacuations of the City.
- F.** The City has experienced well-below average rain falls for 2020, which has caused drier than average conditions in the City, the County, and throughout Northern California.

This presents a significant risk to increase the dangerous fire conditions for the upcoming year.

- G.** In addition to recovering from the Kincade Fire and preparing for potential future wildfires, the City is also battling the Novel Coronavirus (COVID-19) pandemic, which has caused a state of emergency in the City, County, and statewide. The City has closed its City Hall, and required all non-essential government employees to work remotely.
- H.** The federal, state, and local governments have all determined that the COVID-19 pandemic presents a serious public health threat to all individuals, and has created conditions of extreme peril to the safety of persons and property.
- I.** Governor Gavin Newsom issued statewide Executive Order E.O. N-33-20 (“Executive Order”), ordering all residents to shelter in place unless seeking essential services or working in critical infrastructures.
- J.** The Sonoma County Public Health Officer has issued and extended a Shelter-in-Place Order for the County, which has no definite end date (Order No. C-19-05, “County Order”). The stated intent of the County Order is to ensure that County residents “continue to shelter in their places of residence to slow the spread of COVID-19 and mitigate the impact on delivery of critical health care services.
- K.** Among other things, the County Order stipulates when residents may lawfully leave their residences for “essential travel” and for “essential activities,” prohibits all public and private gatherings of any number of people occurring outside a single household, and also requires social distancing when out in public. The County Order states that its modification or easing of restrictions will be based upon the state’s “Roadmap to Modify the Stay at Home Order,” with particular focus on “Factor 3 – the ability of the hospitals and health systems to handle surges” in COVID-19 related hospitalizations.
- L.** Safe and sane fireworks are not essential items or goods, necessary for City residents to maintain their health and/or safety, nor are the sale of safe and sane fireworks listed as an essential business by the County Order or Executive Order. Additionally, safe and sane fireworks have not been deemed to be essential to maintain the continuity of operations of the federal critical infrastructure sectors, as identified by the U.S. Cybersecurity and Infrastructure Security Agency (“CISA”).
- M.** Because of the City’s ongoing allocation of resources due to the COVID-19 pandemic and state of emergency in the City, the City cannot firmly commit to providing the required level of public safety protections necessary to for the sale and discharge of safe and sane fireworks.
- N.** The discharge of safe and sane fireworks are an inherently dangerous activity, which have the high potential to cause substantial damage to property and to cause fires if not properly used and resources are not available for protection measures.
- O.** The discharge of safe and sane fireworks have the extreme potential for medium to large gatherings to occur, which could exacerbate the rate of COVID-19 transmissions, thus undermining the important progress the City has made to slow and stop the transmissions of COVID-19.

**SECTION 2. Urgency Findings.** The City Council of the City of Cloverdale hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency ordinance, which finding is based upon the facts stated herein, and in the staff report dated May 4, 2020, as well any oral and written testimony at the [INSERT DATE] City Council meeting.

This Urgency Ordinance and the prohibition established hereunder is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are all of those certain facts set forth and referenced in this Urgency Ordinance and the entirety of the record before the City Council

**SECTION 3. Prohibition of the sale and discharge of safe and sane fireworks for the year 2020.** Based upon all of the foregoing findings, the City Council of the City of Cloverdale determines that current conditions exist which pose extreme danger to the public health, safety, and the property of the City's residents, businesses, and visitors that necessitate the prohibition of the sale and discharge of safe and sane fireworks for the year 2020.

Accordingly and based upon the authority granted by Cloverdale Municipal Code section 15.14.695(B), the City Council of the City of Cloverdale prohibits the sale and discharge of safe and sane fireworks for the year 2020.

**SECTION 4. California Environmental Quality Act ("CEQA").** The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines because the activity has no potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060(c)(3) of the CEQA Guidelines because the activity is not a project as defined in Section 15378) of the CEQA Guidelines.

**SECTION 5. No Mandatory Duty of Care.** This Ordinance is not intended to, and shall not be construed or given effect in a manner that imposes upon the City or any officer, agent, employee or volunteer, thereof a mandatory duty of care towards persons and property, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 6. Severability.** If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have passed the Ordinance codified in this Chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this Chapter would be subsequently declared invalid or unconstitutional.

**SECTION 7. Effective Date.** This Urgency Ordinance shall become effective immediately upon its adoption with four-fifths vote of the City Council and findings made pursuant to California Government Code section 36937. Within fifteen (15) days after said passage, a summary of this Ordinance with the names of the Council Members voting for or against the same, shall be published in a newspaper of general circulation 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 XXXXXX, by the following vote:

**PASSED, APPROVED AND ADOPTED this XX day of 2020 by the following roll call vote:**

**AYES:  
NOES:  
ABSTAIN:  
ABSENT:**

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
**, Mayor**

\_\_\_\_\_  
**Irene Camacho-Werby, City Clerk**

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