

REPORT

To the Honorable Mayor and City Council
From the City Manager

March 13, 2006

Subject

Ordinance amending Redwood City Municipal Code Section 1.7.A (General Penalty, Continuing Violations).

Recommendation

Introduce an Ordinance amending Redwood City Municipal Code Section 1.7.A (General Penalty, Continuing Violations) to authorize the City Attorney to use his/her discretion to charge and prosecute a violation of the Municipal Code constituting a misdemeanor to be charged and prosecuted as an infraction.

Background

Pursuant to Section 1.7.B of the Redwood City Municipal Code, when any act is prohibited or declared to be unlawful, and such act has been declared to be an infraction, the City Attorney shall prosecute such act as an infraction. Section 1.7.B does establish a minimal fine of One Hundred Dollars (\$100) and a maximum fine of Five Hundred Dollars (\$500). Section 1.7.A provides for all other violations of the Municipal Code to be prosecuted as misdemeanors and, upon conviction, subjects the offender to a fine not exceeding One Thousand Dollars (\$1,000) and/or imprisonment for a term not exceeding six months.

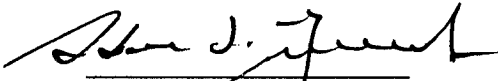
Violations of the current Municipal Code are primarily designated as misdemeanors. However, there are numerous provisions within the Municipal Code for which a misdemeanor prosecution bearing a One Thousand Dollar (\$1000) fine and/or imprisonment would be unwarranted. As an example, a violation of Section 8.16 of the Municipal Code which provides for the rental and fees for bicycle lockers would be charged and prosecuted as a misdemeanor. It thus becomes self-evident that in the event a particular offense were to be prosecuted, the current Municipal Code provides no opportunity for considering the severity of the offense or extenuating or mitigating circumstances. In having reviewed the municipal codes for the neighboring cities of Belmont, San Carlos Foster City and San Bruno, each of these cities does authorize the city attorney or prosecuting attorney to reduce a violation from a misdemeanor to an infraction.

It is therefore recommended that Redwood City Municipal Code Section 1.7.A be amended to permit upon consultation with any affected department, the City Attorney to consider the severity of any such offense now constituting a misdemeanor and charge and prosecute the same as an infraction.

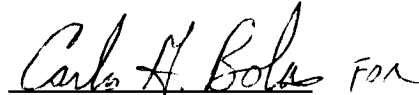
Alternative

Not amend Redwood City Municipal Code Section 1.7.A.

Fiscal Impact
None.



Stan Yamamoto
City Attorney



Ed Everett
City Manager

Attachment: Ordinance

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 1 (GENERAL PROVISIONS),
ARTICLE I (GENERAL), SECTION 1.7.A (GENERAL PENALTY;
CONTINUING VIOLATIONS) OF THE REDWOOD CITY MUNICIPAL
CODE**

The City Council of Redwood City does ordain as follows:

SECTION 1. That Chapter 1 (General Provisions), Article I (General), Section 1.7.A (General Penalty; Continuing Violations) of the Redwood City Municipal Code is hereby amended in its entirety as follows:

“Sec. 1.7.A GENERAL PENALTY; CONTINUING VIOLATIONS:

A. Whenever in this Code or in any other ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any other ordinance of the City shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. Notwithstanding any other provision of this Code, any such violation constituting a misdemeanor may, in the discretion of the City Attorney, be charged and prosecuted as an infraction.

B. Notwithstanding subsection A of this Section, whenever in this Code or in any other ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense; or the doing of any act is required or the failure to do any act is declared to be unlawful, and such act is declared to be unlawful, and such act is declared to be an infraction, where no specific penalty is provided therefor, the violation

of any such provision of this Code or any other ordinance of the City so providing, shall be punished by:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;
2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision or ordinance within one year;
3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision or ordinance within one year.

C. Every day any violation of any provision of this Code or any other ordinance of the City shall continue shall constitute a separate offense.”

SECTION 2. This ordinance shall be effective thirty (30) days from the date of its adoption.

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