

ORDINANCE NO. 24 - 2267

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
REPEALING MUNICIPAL CODE CHAPTER 15.04 AND AMENDING MUNICIPAL
CODE CHAPTERS 2.32, 2.74, 2.86, 11.08, AND 13.04**

The City Council of the City of Cupertino finds that:

1. The City Code of the City of Cupertino requires periodic updates in order to improve City operations and bring the Code up to date with current law and policy.
2. This Ordinance makes minor revisions to the Cupertino Municipal Code to reflect changes in law, provide clarification to the community, and provide for improved customer service and administration of City business.

**NOW, THEREFORE, THE CITY COUNCIL OF THE OF CITY OF CUPERTINO
DOES ORDAIN AS FOLLOWS:**

SECTION 1: Repeal and Adoption.

- (a) Cupertino Municipal Code Chapter 15.04 is hereby repealed in its entirety.
- (b) The Cupertino Municipal Code is hereby amended as set forth in Attachment A.

SECTION 2: Severability and Continuity.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of such portion, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as an amendment to or readoption of the earlier provisions.

SECTION 3: Effective Date.

This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 4: Publication.

The City Clerk shall give notice of adoption of this Ordinance as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be prepared by the City Clerk and published in lieu of publication of the entire text. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the Ordinance listing the names of the City Council members voting for and against the ordinance.

INTRODUCED at a regular meeting of the Cupertino City Council on October 15, 2024 and **ENACTED** at a regular meeting of the Cupertino City Council on November 4, 2024 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Sheila Mohan, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	 _____ Date
APPROVED AS TO FORM: _____ Christopher D. Jensen, City Attorney	 _____ Date

Attachment A –
Amendments to Municipal Code Chapters 2.32, 2.74, 2.86, 11.08, and 13.04

The sections of the Cupertino Municipal Code set forth below are amended or adopted as follows:

*Text added to existing provisions is shown in bold double-underlined text (**example**) and text to be deleted is shown in strikethrough (~~example~~). Text in existing provisions is not amended or readopted by this Ordinance. Text in italics is explanatory and is not an amendment to the Code.*

Where the explanatory text indicates that a new section is being added to the City Code, the new section is shown in plain text.

This ordinance amends several portions of the Municipal Code. For ease of review, the amendments advancing the primary objective are presented first followed by conforming amendments. There is a separate heading in bold italics for each portion of the Code being amended. Each portion is shown beginning on a separate page.

1. Amendments to Chapter 2.32: Planning Commission

2.32.060 Amendments–Records.

A. The affirmative vote of not less than a majority of its total voting members is required to approve a recommendation to amend the zoning ordinance; ~~the affirmative vote of a majority~~ vote present with a quorum present is required to take any other action.

B. The Commission shall keep an accurate record of its proceedings and transactions, and shall render such reports to the Council as may be required by ordinance or resolution, and shall submit an annual report to the Mayor. These records shall be filed with the City Clerk.

2. Amendments to Chapter 2.74: Cupertino Technology, Information, and Communications Commission

2.74.010 Established.

The Technology, Information, and Communications Commission (formerly Telecommunications Commission of the City) is established and shall consist of five members ~~from among the qualified electors of the City~~, none of whom shall be officials or employees of the City, nor cohabit with, as defined by law, nor be related by blood or marriage to any member of the Commission, the City Manager or the staff person(s)

assigned to this Commission. All members shall be City of Cupertino residents. Members of the Technology, Information, and Communications Commission shall be appointed by the City Council.

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2.74.060 Duties, Powers and Responsibilities.

The Cupertino Technology, Information, and Communications Commission shall have the following duties, powers and responsibilities, and such others as the members shall be entrusted with by the City Council from time to time. The commission shall:

1. Advise the City Council and City Manager on all matters relating to technology, information, and communications within the ~~city~~ City of Cupertino;

~~2. Evaluate compliance with any franchise or other agreement between the City and technology, information, and communications providers and make recommendations to the City Council;~~

~~3. Conduct periodic reviews of technology, information, and communications providers, facilities and products and make recommendations on such subjects to the City Council;~~

~~4. Recommend amendments to the City's telecommunications policy of the City Council;~~

5.2. Serve as a liaison between the City, the public and the technology, information, and communications providers in enhancing information and education. Such activities include providing an opportunity for input to residents and disseminating noncommercial, educational materials about technology, information, and communications services;

~~6. At the request of the City Manager, provide assistance in examining methods to obtain equivalent franchise fees or other economic benefits from service providers;~~

7.3. Provide support for community access television, especially public and educational access, and give guidance when needed for development and implementation of access channels and programming;

~~8.4.~~ Recommend ways to foster the City's best use of technology, information, and communications infrastructure and services for the maximum benefit of the community; and

~~9.5.~~ Provide education to the community on the responsible and safe use of technology, information, and communications infrastructure and services, including cybersecurity education and best practices.

3. *Amendments to Chapter 2.86: Housing Commission*

2.86.010 Established–Composition.

A. The Housing Commission of the City is established. The Housing Commission shall consist of five members, as follows:

1. Representative from a Cupertino business;~~7.~~
2. Four community members;~~2.~~

B. The representatives from a Cupertino business and the community members shall not be officials or employees of the City, nor cohabit with, as defined by law, nor be related by blood or marriage, to any member of the Commission, the City Manager or the staff person(s) assigned to this Commission. All members except the Cupertino business representative shall be City of Cupertino residents. Members of the Housing Commission shall be appointed by the City Council.

C. The Director of Community Development, ~~or his or her~~ their designee shall provide technical assistance to the Commission.

4. *Amendments to Chapter 11.08: Bicycles*

11.08.180 Exemptions.

The prohibition in Section 11.08.160 against riding, using, or operating a bicycle on a sidewalk shall not apply to the following:

- A. A child age twelve years and under; ~~and.~~
- B. An adult accompanying a child age twelve years and under who is also riding, using, or operating a bicycle.

C. Any person riding, using or operating a bicycle on a pedestrian path, unless specifically posted as prohibited.

D. Any person riding, using or operating a bicycle on the north side of Pacifica Drive, between Regnart Creek Trail and Torre Avenue.

E. Any person riding, using or operating a bicycle on the east side of Finch Avenue, between Tilson Ave and 200 feet north of Calle de Barcelona.

5. Amendments to Chapter 13.04: Parks

13.04.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

A. "Buildings" includes those buildings, or any portion thereof, under the supervision of the parks and recreation department made available to exclusive use permittees.

B. "City" means the City of Cupertino.

C. "City Manager" means the City Manager of the City of Cupertino or their designee.

D. "Park" means a park, reservation, playground, swimming pool, recreation center or any other area in the City, owned or used by the City or county and devoted to active or passive recreations.

E. "Permit" means a permit for exclusive use of parks or buildings as provided for and defined in this chapter.

F. "Persons" include persons, associations, partnerships, firms and corporations, or any company organization of any kind.

G. "Sound amplifying equipment" means any machine or device for the amplification of the human voice, music, or any other sound. "Sound amplifying equipment" does not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. "Sound amplifying equipment," as used in this section, does not include warning devices on

authorized emergency vehicles or horns or other warning devices of any vehicle used only for traffic safety purposes.

H. "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled. The term includes any trailer in tow of any size, kind or description. Exception is made for baby carriages, wheelchairs, and vehicles in the service of the City parks.

I. "Nature and/or rural preserve" means a park so designated by the City Council pursuant to Section 13.04.201.

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13.04.130 Behavior of Persons in Parks.

No person in a park shall do any of the following:

A. Bring to a park any alcoholic beverages, and no person may drink alcoholic beverages at any time in a park, except picnickers, who may bring to a park, and drink, beer or wine with their picnic meal, so long as they conduct themselves in an orderly manner;

B. Enter or remain in a park while under the influence of intoxicating liquor or any drug;

C. Have brought, or have in his possession, or set off, or otherwise cause to explode or discharge or burn, any firecrackers, torpedoes, rockets, or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or any highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that, in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints;

D. No person having the control or care of any dog, shall suffer or permit such dog to enter or remain in a park or sport field, unless posted for such use, and then only if it is led by a leash of suitable strength not more than six feet in length, unless it is permitted to be off-leash by the City as part of a City-authorized event or program; and the owner and the attendant shall be responsible for any damage caused, in any event, by such dog, even if on leash;

E. Lead, ride, drive, keep or let loose any animal, reptile or fowl of any kind, without a permit to do so from the Director of parks and recreation;

F. Make or kindle a fire for any purpose, except at places provided for such purpose, unless prior special permission be obtained therefor from the Director;

G. Enter an area posted as "Closed to the Public," and no person shall use, or abet the use of, any area in violation of posted notices;

H. Play or bet at or against any game which is played, conducted, dealt, or carried on for money, chips, shell, credit or any other representative of value, or maintain or exhibit any gambling table or other instrument of gambling or gaming, or play any game prohibited by any other ordinance of the City;

I. Sleep, or protractedly lounge, on the seats, benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting, or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace;

J. Use, carry, or possess firearms of any description, or air rifles, spring guns, bow and arrows, slings or any other forms of weapons potentially dangerous to wild life or to human safety. Shooting into park areas from beyond park boundaries is prohibited;

K. Solicit alms or contributions for any purpose, whether public or private, without prior permission from the City Council;

L. Use or allow the use of powered model airplanes or drones except in areas so designated by the department of parks and recreation;

M. Play or practice golf or use golf clubs in any area of the park not designated for such use;

N. Indulge in riotous, boisterous, threatening or indecent conduct.

O. No person shall skate or rollerblade in a manner that causes damage to park amenities or threatens the safety or well being of park patrons. Skating or rollerblading is prohibited on raised surfaces where signed.

P. Feeding Waterfowl Prohibited. No person shall feed or in any manner intentionally provide food to any waterfowl (geese, ducks, or coots) in any City park.