



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL

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CITY COUNCIL STAFF REPORT

Meeting: September 20, 2016

Subject

An Ordinance of the City Council of the City of Cupertino Amending Title 1, Chapter 1.10, to add Section 1.10.055, "Recording Notice of Violations"; amending Title 19, Chapter 19.08, Section 19.08.030 "Definitions", amending Chapter 19.12 Section 19.12.080 "Application Process" and Section 19.12.180 "Expiration, Extension and Revocation", amending Chapter 19.28 Section 19.28.120, "Landscape Requirements", amending Chapter 19.32 Section 19.32.010 "Purpose", repealing and replacing Chapter 19.56, "Density Bonus", and amending Chapter 19.104 to add Section 19.104.205, "Message Substitution"; related to permits, procedures, and requirements of the code to conform to law, ensure internal consistency, and provide clarification (Application No. MCA-2016-01; Applicant: City of Cupertino; Location: City-wide)

Recommended Action

Conduct the first reading of the draft ordinance: "An ordinance of the City Council of the City of Cupertino amending Title 1, Chapter 1.10, to add Section 1.10.055, "Recording Notice of Violations"; amending Title 19, Chapter 19.08, Section 19.08.030 "Definitions", amending Chapter 19.12 Section 19.12.080 "Application Process" and Section 19.12.180 "Expiration, Extension and Revocation", amending Chapter 19.28 Section 19.28.120, "Landscape Requirements", amending Chapter 19.32 Section 19.32.010 "Purpose", repealing and replacing Chapter 19.56, "Density Bonus", and amending Chapter 19.104 to add Section 19.104.205, "Message Substitution"; related to permits, procedures, and requirements of the code to conform to law, ensure internal consistency, and provide clarification (Attachment A).

Discussion

Background

Periodically, language in the Municipal Code is reviewed to ensure consistency with State Law, internal consistency, clarifications and to address issues as an outcome of court cases. At this time, revisions have been identified to the following chapters in the General Provisions and Zoning Titles:

1. Chapter 1.10 - Administrative Citations, Fines, and Penalties: Clarification
2. Chapter 19.08 – Definitions: State Law consistency, clarifications, consistency
3. Chapter 19.12 – Administration: Clarifications
4. Chapter 19.28 - Single-Family Residential Zones: Clarification
5. Chapter 19.32 - Residential Duplex Zones: Correction
6. Chapter 19.56 - Density Bonus: State Law consistency, clarifications, consistency
7. Chapter 19.104 – Signs: Related to outcome of a recent court case

Analysis

1. Chapter 1.10 - Administrative Citations, Fines, and Penalties

- a. Clarification –Language has been added to clarify procedures regarding the recording of violations with the County.

2. Chapter 19.08 – Definitions

- a. State Law Consistency – These are restricted to amendments to existing definitions related to the Density Bonus Ordinance to ensure consistency with state law and the addition of definitions related to certain new provisions allowed under the State Density Bonus law related to parking regulations (AB744 – see details below).
- b. Corrections/clarifications/consistency – Certain incorrect references have been corrected. In addition, minor amendments have been made to ensure consistency and clarification in the use of terms.

3. Chapter 19.12 – Administration

- a. Clarifications – Amendments to the Administration chapter are meant to clarify the existing authority of approval bodies regarding conditions and restrictions on a permit, its review of the California Environmental Quality Act (CEQA), and that violation of the conditions of approval imposed on a development project constitute a violation of the Zoning title.

4. Chapter 19.28 - Single-Family Residential Zones

- a. Clarification – Minor clarification for landscape covenant requirements.

5. Chapter 19.32 - Residential Duplex Zones

- a. Correction – Minor correction to the syntax of a section in this chapter.

6. Chapter 19.56 – Density Bonus

- a. State Law Consistency – Certain new Bills have been signed into law since the last update of the Density Bonus ordinance. These provisions have been incorporated into the ordinance. Where required, and as previously indicated, definitions have been incorporated into Chapter 19.08 (Definitions) These include:
 - i. AB2222 which is related to the eligibility of receiving a density bonus if the site on which a housing development is proposed was occupied by rental housing within five years prior to the application date for a density bonus.
 - ii. AB744 related to the maximum parking requirements that may be imposed on certain housing developments if a reduction in parking requirements is requested and if the site/development meets particular criteria.
 - iii. Miscellaneous: In addition, changes have been incorporated into the Density Bonus ordinance to require affordable units to be affordable for 55 years per state law.
- b. Clarifications/consistency - Other clarifications and internal consistency edits for correct references and language have been made.

7. Chapter 19.104 – Signs

- a. Outcome of court case: With recent litigation, *Reed vs. Town of Gilbert*, an amendment to the Chapter defines ‘message substitution’ and its limits in implementation.

Commission Review and Recommendation

Planning Commission:

On April 26, 2016, the Planning Commission reviewed the proposed Ordinance and recommended approval to the City Council on a 5-0 vote (See Attachment B). The Planning Commission discussed the proposed ordinance, and clarification of the updated Density Bonus language.

Noticing and Public Outreach

The following noticing has been conducted for this application as required by the City's Municipal Code and State Law:

Legal Ad, Display Ad	Agenda
<ul style="list-style-type: none">▪ Legal Ad in the newspaper (<i>at least ten days prior to the hearing</i>)▪ Display Ad in the newspaper (<i>at least 10 days prior to the hearing</i>)	<ul style="list-style-type: none">▪ Posted on the City's official notice bulletin board (<i>at least five days prior to the hearing</i>)▪ Posted on the City of Cupertino's Web site (<i>at least five days prior to the hearing</i>)

CEQA

The proposed Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

Sustainability Impact

None

Fiscal Impact

None

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Reviewed by: Benjamin Fu, Assistant Director of Community Development
Aarti Shrivastava, Assistant City Manager

Approved for Submission by: David Brandt, City Manager

Attachments:

- A. Draft Ordinance
- B. Resolution No. 6801 of the Planning Commission recommending adoption of the draft ordinance
- C. Redline document indicating changes in Chapters 1.10, 19.08, 19.12, 19.28, 19.32, 19.56, and 19.104