

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE TO
AMEND CHAPTER 8.07, BEEKEEPING, AND TABLE 19.20.020 OF CHAPTER 19.20,
PERMITTED, CONDITIONAL, AND EXCLUDED USES IN AGRICULTURAL AND
RESIDENTIAL ZONES, REGARDING THE REGULATION, LOCATION, AND THE
KEEPING OF BEES IN THE CITY AND TO MAKE OTHER CONFORMING
CHANGES IN TABLE 19.20.020 FOR CONSISTENCY.

SECTION I: PROJECT DESCRIPTION

Application No: MCA-2016-03

Applicant: City of Cupertino

Location: Citywide

WHEREAS, the Cupertino Municipal Code Chapter 8.07, Beekeeping, renders it difficult to maintain apiaries within the City and is in conflict with the increased interest of members of the public; and

WHEREAS, the Cupertino Municipal Code Table 19.20.020, Permitted, Conditional, and Excluded Uses in Agricultural and Residential Zones, is amended to make conforming changes and to clarify the intent of beekeeping as an accessory use in all zoning districts and to eliminate the possible misconception that apiaries in general are excluded uses in residential zones; and

WHEREAS, pursuant to Government Code sections 65854 and 65855, the Planning Commission has the authority to review and make recommendations to the City Council regarding amendments to the City's zoning ordinances; and

WHEREAS, the City provided all necessary legal notices to hold a public hearing at which the amendment to the City's zoning ordinances would be considered; and

WHEREAS, on October 25, 2016, the Planning Commission held a noticed public hearing at which interested persons had an opportunity to testify in support of, or in opposition to, the proposed amendment to the City's zoning ordinance and at which time the

Planning Commission considered the proposed amendment to the City's zoning ordinance; and

WHEREAS, the City has analyzed this proposed zoning amendment and determined that it 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; and

WHEREAS, in the event that this proposed amendment 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; and

WHEREAS, in the event that this proposed amendment is found to be a project under CEQA, it is determined to be categorically exempt under section 15301 (Existing Facilities), section 15302 (Replacement or Reconstruction), section 15303 (Construction or Conversion of Small Structures), and section 15308 (Actions by Regulatory Agencies for Protection of the Environment) because it can be seen with certainty to have no possibility of a significant effect on the environment; and

WHEREAS, attached as Exhibit A is the proposed Ordinance; and,

NOW, THEREFORE, the Planning Commission approves this Resolution recommending that the City Council adopt the proposed Ordinance which is attached hereto and incorporated herein by reference as Exhibit A.

PASSED AND ADOPTED this 25th day of October 2016, at a Meeting of the Planning Commission of the City of Cupertino by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

Benjamin Fu
Assist. Community Development Director

Alan Takahashi
Chair, Planning Commission

DRAFT ORDINANCE NO. 16-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO TO AMEND CHAPTER 8.07, BEEKEEPING, AND TABLE 19.20.020 OF CHAPTER 19.20, PERMITTED, CONDITIONAL, AND EXCLUDED USES IN AGRICULTURAL AND RESIDENTIAL ZONES REGARDING THE REGULATION, LOCATION, AND THE KEEPING OF BEES IN THE CITY AND TO MAKE OTHER CONFORMING CHANGES TO TABLE 19.20.020 FOR CONSISTENCY.

WHEREAS, the Cupertino Municipal Code Chapter 8.07, Beekeeping, renders it difficult to maintain apiaries within the City and is in conflict with the increased interest of members of the public; and

WHEREAS, the Cupertino Municipal Code Table 19.20.020, Permitted, Conditional, and Excluded Uses in Agricultural and Residential Zones, is amended to make conforming changes and to clarify the intent of beekeeping as an accessory use in all zoning districts and to eliminate the possible misconception that apiaries in general are excluded uses in residential zones; and

WHEREAS, the City has analyzed this proposed zoning amendment and determined that it 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; and

WHEREAS, in the event that this proposed amendment 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; and

WHEREAS, in the event that this proposed amendment is found to be a project under CEQA, it is determined to be categorically exempt under section 15301 (Existing Facilities), section 15302 (Replacement or Reconstruction), section 15303 (Construction or Conversion of Small Structures), and section 15308 (Actions by Regulatory Agencies for Protection of the Environment) because it can be seen with certainty to have no possibility of a significant effect on the environment; and

WHEREAS, the Planning Commission has reviewed the amendments to the Municipal Code at a duly noticed public hearing held on October 25, 2016 where the public had an opportunity to comment at which the Commission adopted Planning Commission Resolution No. _____ by a X-X vote recommending that the City Council adopt the amendments;

WHEREAS, a duly noticed public hearing was held on November __, 2016 at which the public had an opportunity to speak on this matter; and

WHEREAS, the City Council before taking action on this Ordinance has reviewed the exemptions, and using its independent judgment, determines the Ordinance to be exempt from CEQA as stated above; and

WHEREAS, the City Council is the decision-making body for this Ordinance; and

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

SECTION 1. Chapter 8.07 of Title 8 of the Cupertino Municipal Code entitled “Beekeeping” is hereby amended to be entitled, numbered, and to read as follows:

Chapter 8.07
BEEKEEPING

Section

- 8.07.010 **Purpose.**
- 8.07.020 **Definitions.**
- 8.07.030 **Location, Number, Maintenance and Registration of Apiaries.**
- 8.07.040 **Nuisance.**
- 8.07.050 **Enforcement.**

8.07.010 Purpose.

This chapter is enacted to provide for beekeeping, including urban beekeeping, activities within the City while minimizing impacts to surrounding properties through the establishment of beekeeping regulations.

8.07.020 Definitions.

For the purposes of this chapter, the following definitions apply, unless it is apparent from the context that a different meaning is intended:

“Apiary” means a collection of bees, hives, and any accessory appliances.

- A. “Agricultural Apiary” means an apiary kept as a principal use on any property;
- B. “Urban Apiary” means an apiary kept as an accessory use pursuant to Section 19.100.020, Accessory Uses and Facilities.

“Bees” means any stage of the common domestic honey-producing insects of the species *apis mellifera*.

“Hive” means any receptacle, container or structure used to house bees.

“Location” means any premises upon which an apiary is located.

8.07.030 Location, Number, Maintenance and Registration of Apiaries.

Any person may keep and maintain apiaries in accordance to the following regulations:

A. Location:

1. Agricultural apiaries as permitted in Chapter 19.20;
2. Urban apiaries in all zoning districts;
3. Minimum setbacks:
 - i. Front property line and/or any public or private street: 20 feet; and
 - ii. Side or rear property lines and/or driveway easements: Ten (10) feet, unless property owners of adjacent properties or beneficiaries of driveway easements have given written permission to locate hives at a closer distance.

B. Number: Only two hives may be kept or maintained on parcels less than 5,000 square feet in size.

C. Maintenance:

1. A constant supply of fresh water adequate in quantity for the apiary should be provided and maintained on the location.
2. Any abandoned or disused apiaries shall be promptly dismantled and removed from the location.

D. Registration: All apiaries must be registered with the Santa Clara County Agricultural Commissioner as required by Division 13: Bee Management and Honey Production of the California Food and Agricultural Code commencing at Section 29000, and or as thereafter may be amended.

8.07.040 Nuisance.

The maintenance or use of any real property in violation of this Chapter, or when an apiary's bees swarm and/or abscond, or which creates a condition as defined in Section 1.09.030, is hereby declared a public nuisance, is prohibited and is subject to code enforcement and all other enforcement remedies as provided for in this Code.

8.07.050 Enforcement.

Any person who violates any provision of this chapter shall be subject to administrative fines and/or penalties pursuant to Chapter 1.10. In addition, any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Chapter 1.12.

SECTION 2. Sub-Sections 1(h), (i), (j) and (9) of Table 19.20.020 of Section 19.20.020 of Chapter 19.20 of Title 19 of the Cupertino Municipal Code entitled "Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones" is hereby amended as follows:

Table 19.20.020–Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones								
USES		ZONING DISTRICTS						
		A	A-1	R-1	RHS	R1C	R-2	R-3
1. Agriculture, horticulture, viticulture and forestry, including the following and similar uses:		P	P	—	—	—	—	—
(no change to subsections 19.20.020 (1) (a)-(g))								
h.	Poultry raising and hatcheries,	P	CUP-PC	See #27				
i.	Apiaries, pursuant to Chapter 8.07,	P	P	See #9				
j.	Nurseries, greenhouses and landscaping gardens	P	CUP-PC	See #20				
(no change to subsections 19.20.020 (1) (k) - 19.20.020 (8))								
9. Accessory facilities and uses incidental to permitted uses and otherwise conforming with the provisions of Chapter 19.100 of this title;		P	P	P	P	P	P	P

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. Effective Date. This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 6. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

INTRODUCED at a regular meeting of the Cupertino City Council the ____ day
of _____ 2016 and **ENACTED** at a regular meeting of the Cupertino City Council
on this ____ of _____ 2016 by the following vote:

Vote Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Grace Schmidt, City Clerk

Barry Chang, Mayor, City of Cupertino